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-CITE-

28 USC CHAPTER 6 - BANKRUPTCY JUDGES

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 6 - BANKRUPTCY JUDGES

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CHAPTER 6 - BANKRUPTCY JUDGES

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Sec.

151. Designation of bankruptcy courts.
152. Appointment of bankruptcy judges.
153. Salaries; character of service.
154. Division of business; chief judge.(!1)
155. Temporary transfer of bankruptcy judges.
156. Staff; expenses.
157. Procedures.
158. Appeals.

PRIOR PROVISIONS

A prior chapter 6, consisting of sections 151 to 160, which was added by Pub. L. 95-598, title II, Sec. 201(a), Nov. 6, 1978, 92 Stat. 2657, as amended by Pub. L. 97-164, title I, Sec. 110(d), Apr. 2, 1982, 96 Stat. 29, and which related to bankruptcy courts, did not become effective pursuant to section 402(b) of Pub. L. 95-598, as amended, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

COURTS DURING TRANSITION

Pub. L. 95-598, title IV, Sec. 404, Nov. 6, 1978, 92 Stat. 2683, as amended by Pub. L. 98-249, Sec. 1(b), Mar. 31, 1984, 98 Stat. 116; Pub. L. 98-271, Sec. 1(b), Apr. 30, 1984, 98 Stat. 163; Pub. L. 98-299, Sec. 1(b), May 25, 1984, 98 Stat. 214; Pub. L. 98-325, Sec. 1(b), June 20, 1984, 98 Stat. 268; Pub. L. 98-353, title I, Sec. 121(b), July 10, 1984, 98 Stat. 345, which provided that, for purposes of Pub. L. 95-598, which enacted Title 11, Bankruptcy, and the amendments made by Pub. L. 95-598, the courts of bankruptcy as defined under section 1(10) of former Title 11, created under section 11(a) of former Title 11, and existing on Sept. 30, 1979, continue to be courts of bankruptcy during the transition period beginning Oct. 1, 1979, and ending July 9, 1984, made provision for extension of the term of office of referees in bankruptcy serving

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on Nov. 6, 1978, and for such a referee to have the title of United States bankruptcy judge, established for each State a merit screening committee to pass on qualifications of such a referee and determine if the term of such a referee should be extended, and set forth the rules and provisions applicable to United States bankruptcy judges during the transition period, was repealed by Pub. L. 98-353, title I, Secs. 114, 122(a), July 10, 1984, 98 Stat. 343, 346, eff. July 10, 1984.

TRANSITION STUDY

Pub. L. 95-598, title IV, Sec. 406, Nov. 6, 1978, 92 Stat. 2686, as amended by Pub. L. 98-249, Sec. 1(c), Mar. 31, 1984, 98 Stat. 116; Pub. L. 98-271, Sec. 1(c), Apr. 30, 1984, 98 Stat. 163; Pub. L. 98-299, Sec. 1(c), May 25, 1984, 98 Stat. 214; Pub. L. 98-325, Sec. 1(c), June 20, 1984, 98 Stat. 268; Pub. L. 98-353, title I, Sec. 121(c), July 10, 1984, 98 Stat. 346, which provided that during the transition period, Oct. 1, 1979, to July 9, 1984, the Director of the Administrative Office of the United States Courts make continuing studies and surveys in the judicial districts to determine the number of bankruptcy judges needed after July 9, 1984, to provide for the expeditious and effective administration of justice, their regular places of offices, and the places where the court was to be held, and that the Director report to the judicial councils of the circuits and the Judicial Conference of the United States his recommendations, the judicial councils advise the Conference of their recommendations, and the Conference recommend to the Congress and the President, before Jan. 3, 1983, the number of bankruptcy judges needed after July 9, 1984, and the locations at which they were to serve, was repealed by Pub. L. 98-353, title I, Secs. 114, 122(a), July 10, 1984, 98 Stat. 343, 346, eff. July 10, 1984.

JUDICIAL ADMINISTRATION DURING TRANSITION

Pub. L. 95-598, title IV, Sec. 407, Nov. 6, 1978, 92 Stat. 2686, which provided that the Director of the Administrative Office of the United States Courts appoint a committee of not fewer than seven United States bankruptcy judges to advise the Director with respect to matters arising during the transition period or that are relevant to the purposes of the transition period, and directed that during the transition period, the chief judge of each circuit summon at least one bankruptcy judge from each judicial district within the circuit to the judicial conference of such circuit called and held under section 332 of this title, was repealed by Pub. L. 98-353, title I, Secs. 114, 122(a), July 10, 1984, 98 Stat. 343, 346, eff. July 10, 1984.

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EXTENSION AND TERMINATION OF TERM OF OFFICE OF BANKRUPTCY JUDGE
SERVING ON JUNE 27, 1984

Section 121(e) of Pub. L. 98-353 provided that: "The term of office of any bankruptcy judge who was serving on June 27, 1984, is extended to and shall expire at the end of the day of enactment of this Act [July 10, 1984]."

[Section 121(e) of Pub. L. 98-353 effective June 27, 1984, see section 122(c) of Pub. L. 98-353, set out as an Effective Date note under section 151 of this title.]

For prior extensions of the term of office of bankruptcy judges see:

- Pub. L. 98-325, Sec. 2, June 20, 1984, 98 Stat. 268.
- Pub. L. 98-299, Sec. 2, May 25, 1984, 98 Stat. 214.
- Pub. L. 98-271, Sec. 2, Apr. 30, 1984, 98 Stat. 163.
- Pub. L. 98-249, Sec. 2, Mar. 31, 1984, 98 Stat. 116.

-FOOTNOTE-

(!1) So in original. Does not conform to section catchline.

-End-

-CITE-

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-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 6 - BANKRUPTCY JUDGES

-HEAD-

Sec. 151. Designation of bankruptcy courts

-STATUTE-

In each judicial district, the bankruptcy judges in regular active service shall constitute a unit of the district court to be known as the bankruptcy court for that district. Each bankruptcy judge, as a judicial officer of the district court, may exercise the authority conferred under this chapter with respect to any action, suit, or proceeding and may preside alone and hold a regular or special session of the court, except as otherwise provided by law or by rule or order of the district court.

-SOURCE-

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(Added Pub. L. 98-353, title I, Sec. 104(a), July 10, 1984, 98 Stat. 336.)

-MISC1-

EFFECTIVE DATE

Section 122 of title I of Pub. L. 98-353 provided that:

"(a) Except as otherwise provided in this section, this title and the amendments made by this title [enacting this chapter and sections 1408 to 1412 and 1452 of this title, amending sections 372, 634, 957, 1334, 1360, and 1930 of this title, sections 8331, 8334, 8336, 8339, 8341, and 8344 of Title 5, Government Organization and Employees, and section 105 of Title 11, Bankruptcy, enacting provisions set out as notes preceding section 151 of this title and under sections 151 to 153, 634, and 1334 of this title and section 8331 of Title 5, amending provisions set out as notes preceding sections 151 and 1471 of this title and section 101 of Title 11, and repealing provisions set out as notes preceding sections 151 and 1471 of this title] shall take effect on the date of the enactment of this Act [July 10, 1984].

"(b) Section 1334(c)(2) of title 28, United States Code, and section 1411(a) of title 28, United States Code, as added by this Act, shall not apply with respect to cases under title 11 of the United States Code that are pending on the date of enactment of this Act [July 10, 1984], or to proceedings arising in or related to such cases.

"(c) Sections 108(b) [enacting provisions set out as a note under section 634 of this title], 113 [amending provisions set out as a note preceding section 101 of Title 11, Bankruptcy], and 121(e) [enacting provisions set out as a note preceding section 151 of this title] shall take effect on June 27, 1984."

SHORT TITLE OF 1984 AMENDMENT

Section 1 of Pub. L. 98-353 provided: "That this Act [enacting this chapter and sections 1408 to 1412 and 1452 of this title and sections 557 to 559 and 1113 of Title 11, Bankruptcy, amending sections 44, 98, 131, 133, 371, 372, 634, 957, 1334, 1360, and 1930 of this title, sections 8331, 8334, 8336, 8339, 8341, 8344, 8701, 8706, 8714a, and 8714b of Title 5, Government Organization and Employees, and sections 101 to 103, 105, 108, 109, 303, 321, 322, 326 to 330, 342, 343, 345, 346, 349, 350, 361 to 363, 365, 366, 501 to 503, 505 to 507, 509, 510, 521 to 525, 541 to 550, 552 to 555, 702 to 704, 707, 723 to 728, 741, 745, 752, 761, 763 to 766, 901 to 903, 921, 922, 927, 943, 945, 1102, 1103, 1105 to 1108, 1112, 1121, 1123 to 1127, 1129, 1141, 1142, 1144 to 1146, 1166, 1168 to 1171, 1173, 1301, 1302, 1304, 1307, 1322, 1324 to 1326, 1328, 1329,

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15103, and 151302 of Title 11, enacting provisions set out as notes preceding section 151 of this title and under sections 44, 133, 151 to 153, 371, 634, 1334, and 2075 of this title, sections 8331 and 8706 of Title 5, and preceding section 101 of Title 11 and under sections 101, 365, and 1113 of Title 11, amending provisions set out as notes preceding sections 151, 581, and 1471 of this title and section 101 of Title 11, repealing provisions set out as notes preceding sections 151 and 1471 of this title, amending Rules 2002 and 3001 of the Bankruptcy Rules, set out in the Appendix to this title, and amending Official Bankruptcy Form No. 1 in the Appendix of Forms] may be cited as the 'Bankruptcy Amendments and Federal Judgeship Act of 1984'."

SEPARABILITY

Section 119 of Pub. L. 98-353 provided that: "If any provision of this Act [see Short Title of 1984 Amendment note above] or the application thereof to any person or circumstance is held invalid, the remainder of this Act, or the application of that provision to persons or circumstances other than those as to which it is held invalid, is not affected thereby."

-End-

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TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 6 - BANKRUPTCY JUDGES

-HEAD-

Sec. 152. Appointment of bankruptcy judges

-STATUTE-

(a)(1) The United States court of appeals for the circuit shall appoint bankruptcy judges for the judicial districts established in paragraph (2) in such numbers as are established in such paragraph. Such appointments shall be made after considering the recommendations of the Judicial Conference submitted pursuant to subsection (b). Each bankruptcy judge shall be appointed for a term of fourteen years, subject to the provisions of subsection (e). However, upon the expiration of the term, a bankruptcy judge may, with the approval of the judicial council of the circuit, continue

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to perform the duties of the office until the earlier of the date which is 180 days after the expiration of the term or the date of the appointment of a successor. Bankruptcy judges shall serve as judicial officers of the United States district court established under Article III of the Constitution.

(2) The bankruptcy judges appointed pursuant to this section shall be appointed for the several judicial districts as follows:

Districts	Judges

Alabama:	
Northern	5
Middle	2
Southern	2
Alaska	2
Arizona	7
Arkansas:	
Eastern and Western	3
California:	
Northern	9
Eastern	6
Central	21
Southern	4
Colorado	5
Connecticut	3
Delaware	1
District of Columbia	1
Florida:	
Northern	1
Middle	8
Southern	5
Georgia:	
Northern	8
Middle	2
Southern	2
Middle and Southern	1
Hawaii	1
Idaho	2
Illinois:	
Northern	10
Central	3
Southern	1
Indiana:	
Northern	3
Southern	4

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Iowa:	
Northern	2
Southern	2
Kansas	4
Kentucky:	
Eastern	2
Western	3
Louisiana:	
Eastern	2
Middle	1
Western	3
Maine	2
Maryland	4
Massachusetts	5
Michigan:	
Eastern	4
Western	3
Minnesota	4
Mississippi:	
Northern	1
Southern	2
Missouri:	
Eastern	3
Western	3
Montana	1
Nebraska	2
Nevada	3
New Hampshire	1
New Jersey	8
New Mexico	2
New York:	
Northern	2
Southern	9
Eastern	6
Western	3
North Carolina:	
Eastern	2
Middle	2
Western	2
North Dakota	1
Ohio:	
Northern	8
Southern	7
Oklahoma:	
Northern	2
Eastern	1

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Western	3
Oregon	5
Pennsylvania:	
Eastern	5
Middle	2
Western	4
Puerto Rico	2
Rhode Island	1
South Carolina	2
South Dakota	2
Tennessee:	
Eastern	3
Middle	3
Western	4
Texas:	
Northern	6
Eastern	2
Southern	6
Western	4
Utah	3
Vermont	1
Virginia:	
Eastern	5
Western	3
Washington:	
Eastern	2
Western	5
West Virginia:	
Northern	1
Southern	1
Wisconsin:	
Eastern	4
Western	2
Wyoming	1.

(3) Whenever a majority of the judges of any court of appeals cannot agree upon the appointment of a bankruptcy judge, the chief judge of such court shall make such appointment.

(4) The judges of the district courts for the territories shall serve as the bankruptcy judges for such courts. The United States court of appeals for the circuit within which such a territorial district court is located may appoint bankruptcy judges under this chapter for such district if authorized to do so by the Congress of the United States under this section.

(b)(1) The Judicial Conference of the United States shall, from

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time to time, and after considering the recommendations submitted by the Director of the Administrative Office of the United States Courts after such Director has consulted with the judicial council of the circuit involved, determine the official duty stations of bankruptcy judges and places of holding court.

(2) The Judicial Conference shall, from time to time, submit recommendations to the Congress regarding the number of bankruptcy judges needed and the districts in which such judges are needed.

(3) Not later than December 31, 1994, and not later than the end of each 2-year period thereafter, the Judicial Conference of the United States shall conduct a comprehensive review of all judicial districts to assess the continuing need for the bankruptcy judges authorized by this section, and shall report to the Congress its findings and any recommendations for the elimination of any authorized position which can be eliminated when a vacancy exists by reason of resignation, retirement, removal, or death.

(c) Each bankruptcy judge may hold court at such places within the judicial district, in addition to the official duty station of such judge, as the business of the court may require.

(d) With the approval of the Judicial Conference and of each of the judicial councils involved, a bankruptcy judge may be designated to serve in any district adjacent to or near the district for which such bankruptcy judge was appointed.

(e) A bankruptcy judge may be removed during the term for which such bankruptcy judge is appointed, only for incompetence, misconduct, neglect of duty, or physical or mental disability and only by the judicial council of the circuit in which the judge's official duty station is located. Removal may not occur unless a majority of all of the judges of such council concur in the order of removal. Before any order of removal may be entered, a full specification of charges shall be furnished to such bankruptcy judge who shall be accorded an opportunity to be heard on such charges.

-SOURCE-

(Added Pub. L. 98-353, title I, Sec. 104(a), July 10, 1984, 98 Stat. 336; amended Pub. L. 99-554, title I, Sec. 101, Oct. 27, 1986, 100 Stat. 3088; Pub. L. 100-587, Nov. 3, 1988, 102 Stat. 2982; Pub. L. 101-650, title III, Sec. 304, Dec. 1, 1990, 104 Stat. 5105; Pub. L. 102-361, Secs. 2, 4, Aug. 26, 1992, 106 Stat. 965, 966.)

-MISC1-

AMENDMENTS

1992 - Subsec. (a)(2). Pub. L. 102-361, Sec. 2, in item relating

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to district of Arizona substituted "7" for "5", in item relating to central district of California substituted "21" for "19", in item relating to district of Connecticut substituted "3" for "2", in item relating to middle district of Florida substituted "8" for "4", in item relating to southern district of Florida substituted "5" for "3", in item relating to northern district of Georgia substituted "8" for "6", inserted item relating to middle and southern districts of Georgia, in item relating to district of Maryland substituted "4" for "3", in item relating to district of Massachusetts substituted "5" for "4", in item relating to district of New Jersey substituted "8" for "7", in item relating to southern district of New York substituted "9" for "7", in item relating to eastern district of Pennsylvania substituted "5" for "3", in item relating to middle district of Tennessee substituted "3" for "2", in item relating to western district of Tennessee substituted "4" for "3", in item relating to northern district of Texas substituted "6" for "5", and in item relating to eastern district of Virginia substituted "5" for "4".

Subsec. (b)(3). Pub. L. 102-361, Sec. 4, added par. (3).

1990 - Subsec. (a)(1). Pub. L. 101-650 inserted after third sentence "However, upon the expiration of the term, a bankruptcy judge may, with the approval of the judicial council of the circuit, continue to perform the duties of the office until the earlier of the date which is 180 days after the expiration of the term or the date of the appointment of a successor."

1988 - Subsec. (a)(2). Pub. L. 100-587 in item relating to district of Alaska substituted "2" for "1", in item relating to district of Colorado substituted "5" for "4", in item relating to district of Kansas substituted "4" for "3", in item relating to eastern district of Kentucky substituted "2" for "1", in item relating to eastern district of Texas substituted "2" for "1", in item relating to western district of Texas substituted "4" for "3", and in item relating to district of Arizona substituted "5" for "4".

1986 - Subsec. (a)(2). Pub. L. 99-554 in item relating to eastern district and western district of Arkansas substituted "3" for "2", in item relating to northern district of California substituted "9" for "7", in item relating to eastern district of California substituted "6" for "4", in item relating to central district of California substituted "19" for "12", in item relating to southern district of California substituted "4" for "3", in item relating to middle district of Florida substituted "4" for "2", in item relating to northern district of Georgia substituted "6" for "4", in item relating to southern district of Georgia substituted "2" for "1", in item relating to district of Idaho substituted "2" for "1", in item relating to northern district of Illinois substituted

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"10" for "8", in item relating to central district of Illinois substituted "3" for "2", in item relating to northern district of Indiana substituted "3" for "2", in item relating to northern district of Iowa substituted "2" for "1", in item relating to southern district of Iowa substituted "2" for "1", in item relating to western district of Kentucky substituted "3" for "2", in item relating to western district of Louisiana substituted "3" for "2", in item relating to district of Maryland substituted "3" for "2", in item relating to western district of Michigan substituted "3" for "2", in item relating to district of Nebraska substituted "2" for "1", in item relating to district of Nevada substituted "3" for "2", in item relating to district of New Jersey substituted "7" for "5", in item relating to western district of North Carolina substituted "2" for "1", in item relating to northern district of Oklahoma substituted "2" for "1", in item relating to western district of Oklahoma substituted "3" for "2", in item relating to district of Oregon substituted "5" for "4", in item relating to western district of Pennsylvania substituted "4" for "3", in item relating to district of South Carolina substituted "2" for "1", in item relating to district of South Dakota substituted "2" for "1", in item relating to eastern district of Tennessee substituted "3" for "2", in item relating to western district of Tennessee substituted "3" for "2", in item relating to northern district of Texas substituted "5" for "4", in item relating to southern district of Texas substituted "6" for "3", in item relating to western district of Texas substituted "3" for "2", in item relating to district of Utah substituted "3" for "2", in item relating to eastern district of Virginia substituted "4" for "3", in item relating to eastern district of Washington substituted "2" for "1", in item relating to western district of Washington substituted "5" for "4", and in item relating to eastern district of Wisconsin substituted "4" for "3".

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-554 effective Oct. 27, 1986, see section 302(b) of Pub. L. 99-554, set out as a note under section 581 of this title.

TEMPORARY APPOINTMENT OF ADDITIONAL JUDGES

Section 3 of Pub. L. 102-361, as amended by Pub. L. 104-317, title III, Sec. 307, Oct. 19, 1996, 110 Stat. 3852, provided that:

"(a) Appointments. - The following bankruptcy judges shall be appointed in the manner prescribed in section 152(a)(1) of title 28, United States Code:

"(1) 1 additional bankruptcy judge for the northern district of Alabama.

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"(2) 1 additional bankruptcy judge for the district of Colorado.

"(3) 1 additional bankruptcy judge for the district of Delaware.

"(4) 1 additional bankruptcy judge for the southern district of Illinois.

"(5) 1 additional bankruptcy judge for the district of New Hampshire.

"(6) 1 additional bankruptcy judge for the middle district of North Carolina.

"(7) 1 additional bankruptcy judge for the district of Puerto Rico.

"(8) 1 additional bankruptcy judge for the district of South Carolina.

"(9) 1 additional bankruptcy judge for the eastern district of Tennessee.

"(10) 1 additional bankruptcy judge for the western district of Texas.

"(b) Vacancies. - The first vacancy in the office of bankruptcy judge in each of the judicial districts set forth in subsection (a), resulting from the death, retirement, resignation, or removal of a bankruptcy judge, and occurring 5 years or more after the appointment date of the judge named to fill the temporary judgeship position, shall not be filled. In the case of a vacancy resulting from the expiration of the term of a bankruptcy judge not described in the preceding sentence, that judge shall be eligible for reappointment as a bankruptcy judge in that district."

EXTENSION AND TERMINATION OF TERM OF OFFICE OF PART-TIME BANKRUPTCY

JUDGE SERVING ON JULY 2, 1986, IN DISTRICT OF OREGON, WESTERN DISTRICT OF MICHIGAN, AND EASTERN DISTRICT OF OKLAHOMA

Pub. L. 99-349, title I, July 2, 1986, 100 Stat. 718, provided that: "Notwithstanding the provisions of section 106(b)(1) of the Bankruptcy Amendments and Federal Judgeship Act of 1984 [section 106(b)(1) of Pub. L. 98-353, set out below], a bankruptcy judge serving on a part-time basis on the date of enactment of this Act [July 2, 1986] may continue to serve as a part-time judge for such district until December 31, 1986, or until such time as a full-time bankruptcy judge for such district is appointed, whichever is earlier: Provided, That these provisions shall apply only to part-time bankruptcy judges serving in the district of Oregon, the western district of Michigan, and the eastern district of Oklahoma."

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EXTENSION AND TERMINATION OF TERM OF OFFICE OF BANKRUPTCY JUDGE AND

PART-TIME BANKRUPTCY JUDGE SERVING ON JULY 10, 1984; PRACTICE OF LAW BY PART-TIME BANKRUPTCY JUDGE

Section 106 of Pub. L. 98-353 provided that:

"(a) Notwithstanding section 152 of title 28, United States Code, as added by this Act, the term of office of a bankruptcy judge who is serving on the date of enactment of this Act [July 10, 1984] is extended to and expires four years after the date such bankruptcy judge was last appointed to such office or on October 1, 1986, whichever is later.

"(b)(1) Notwithstanding section 153(a) of title 28, United States Code, as added by this Act, and notwithstanding subsection (a) of this section, a bankruptcy judge serving on a part-time basis on the date of enactment of this Act [July 10, 1984] may continue to serve on such basis for a period not to exceed two years from the date of enactment of this Act [July 10, 1984].

"(2) Notwithstanding the provisions of section 153(b) of title 28, United States Code, a bankruptcy judge serving on a part-time basis may engage in the practice of law but may not engage in any other practice, business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of such bankruptcy judge's duties as a judicial officer. The Judicial Conference of the United States may promulgate appropriate rules and regulations to implement this paragraph."

APPOINTMENT TO FILL VACANCIES; NOMINATIONS; QUALIFICATIONS

Section 120 of Pub. L. 98-353, as amended by Pub. L. 99-554, title I, Sec. 102, Oct. 27, 1986, 100 Stat. 3089; Pub. L. 104-317, title III, Sec. 303, Oct. 19, 1996, 110 Stat. 3852, provided that:

"(a)(1) Whenever a court of appeals is authorized to fill a vacancy that occurs on a bankruptcy court of the United States, such court of appeals shall appoint to fill that vacancy a person whose character, experience, ability, and impartiality qualify such person to serve in the Federal judiciary.

"(2) It is the sense of the Congress that the courts of appeals should consider for appointment under section 152 of title 28, United States Code, to the first vacancy which arises after the date of the enactment of this Act [July 10, 1984] in the office of each bankruptcy judge, the bankruptcy judge who holds such office immediately before such vacancy arises, if such bankruptcy judge requests to be considered for such appointment.

"(3) When filling vacancies, the court of appeals may consider reappointing incumbent bankruptcy judges under procedures prescribed by regulations issued by the Judicial Conference of the United States.

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"(b) The judicial council of the circuit involved shall assist the court of appeals by evaluating potential nominees and by recommending to such court for consideration for appointment to each vacancy on the bankruptcy court persons who are qualified to be bankruptcy judges under regulations prescribed by the Judicial Conference of the United States. In the case of the first vacancy which arises after the date of the enactment of this Act [July 10, 1984] in the office of each bankruptcy judge, such potential nominees shall include the bankruptcy judge who holds such office immediately before such vacancy arises, if such bankruptcy judge requests to be considered for such appointment and the judicial council determines that such judge is qualified under subsection (c) of this section to continue to serve. Such potential nominees shall receive consideration equal to that given all other potential nominees for such position. All incumbent nominees seeking reappointment thereafter may be considered for such a reappointment, pursuant to a majority vote of the judges of the appointing court of appeals, under procedures authorized under subsection (a)(3).

"(c) Before transmitting to the court of appeals the names of the persons the judicial council for the circuit deems best qualified to fill any existing vacancy, the judicial council shall have determined that -

"(1) public notice of such vacancy has been given and an effort has been made, in the case of each such vacancy, to identify qualified candidates, without regard to race, color, sex, religion, or national origin,

"(2) such persons are members in good standing of at least one State bar, the District of Columbia bar, or the bar of the Commonwealth of Puerto Rico, and members in good standing of every other bar of which they are members,

"(3) such persons possess, and have a reputation for, integrity and good character,

"(4) such persons are of sound physical and mental health,

"(5) such persons possess and have demonstrated commitment to equal justice under law,

"(6) such persons possess and have demonstrated outstanding legal ability and competence, as evidenced by substantial legal experience, ability to deal with complex legal problems, aptitude for legal scholarship and writing, and familiarity with courts and court processes, and

"(7) such persons demeanor, character, and personality indicate that they would exhibit judicial temperament if appointed to the position of United States bankruptcy judge."

-End-

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-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 6 - BANKRUPTCY JUDGES

-HEAD-

Sec. 153. Salaries; character of service

-STATUTE-

(a) Each bankruptcy judge shall serve on a full-time basis and shall receive as full compensation for his services, a salary at an annual rate that is equal to 92 percent of the salary of a judge of the district court of the United States as determined pursuant to section 135, to be paid at such times as the Judicial Conference of the United States determines.

(b) A bankruptcy judge may not engage in the practice of law and may not engage in any other practice, business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of such bankruptcy judge's duties as a judicial officer. The Conference may promulgate appropriate rules and regulations to implement this subsection.

(c) Each individual appointed under this chapter shall take the oath or affirmation prescribed by section 453 of this title before performing the duties of the office of bankruptcy judge.

(d) A bankruptcy judge appointed under this chapter shall be exempt from the provisions of subchapter I of chapter 63 of title 5.

-SOURCE-

(Added Pub. L. 98-353, title I, Sec. 104(a), July 10, 1984, 98 Stat. 338; amended Pub. L. 100-202, Sec. 101(a), [title IV, Sec. 408(a)], Dec. 22, 1987, 101 Stat. 1329, 1329-26; Pub. L. 100-702, title X, Sec. 1003(a)(1), Nov. 19, 1988, 102 Stat. 4665.)

-MISC1-

AMENDMENTS

1988 - Subsec. (d). Pub. L. 100-702 added subsec. (d).

1987 - Subsec. (a). Pub. L. 100-202 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Each

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bankruptcy judge shall serve on a full-time basis and shall receive as full compensation for his services a salary at an annual rate determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361) as adjusted by section 461 of this title, to be paid at such times as the Judicial Conference of the United States determines."

EFFECTIVE DATE OF 1987 AMENDMENT

Section 101(a) [title IV, Sec. 408(d)] of Pub. L. 100-202 provided that: "This section [amending this section, section 634 of this title, and section 356 of Title 2, The Congress] shall become effective October 1, 1988, and any salary affected by the provisions of this section shall be adjusted at the beginning of the first applicable pay period commencing on or after such date of enactment [probably should read "such date", meaning Oct. 1, 1988]."

TRANSITION PROVISIONS

Section 1003(b) of Pub. L. 100-702 provided that:

"(1) If an individual who is exempted from the Leave Act by operation of amendments under this section [amending this section and sections 156, 631, 634, 712, 752, and 794 of this title] and who was previously subject to the provisions of subchapter I of chapter 63 of title 5, United States Code, without a break in service, again becomes subject to this subchapter on completion of his service as an exempted officer, the unused annual leave and sick leave standing to his credit when he was exempted from this subchapter is deemed to have remained to his credit.

"(2) In computing an annuity under section 8339 of title 5, United States Code, the total service of a person specified in paragraph (1) of this subsection who retired on an immediate annuity or dies leaving a survivor or survivors entitled to an annuity includes, without regard to the limitations imposed by subsection (f) of section 8339 of title 5, United States Code, the days of unused sick leave standing to his credit when he was exempted from subchapter I of chapter 63 of title 5, United States Code, except that these days will not be counted in determining average pay or annuity eligibility."

CONTINUATION OF SALARIES OF BANKRUPTCY JUDGES IN EFFECT ON JUNE 27, 1984

Section 105(a) of Pub. L. 98-353 provided that: "The salary of a bankruptcy judge in effect on June 27, 1984, shall remain in effect until changed as a result of a determination or adjustment made pursuant to section 153(a) of title 28, United States Code, as added by this Act."

To look up a section, use this format: **28 USC Sec. #**

PART-TIME BANKRUPTCY JUDGES

For provision that notwithstanding subsecs. (a) and (b) of this section, a bankruptcy judge serving on a part-time basis on July 10, 1984, may continue to serve on such basis for two years from such date, and may engage in the practice of law, see section 106 of Pub. L. 98-353, set out as a note under section 152 of this title.

SALARY INCREASES

1988 - Salaries of bankruptcy judges continued at \$72,500 per annum by Ex. Ord. No. 12622, Dec. 31, 1987, 53 F.R. 222, formerly set out as a note under section 5332 of Title 5, Government Organization and Employees.

1987 - Salaries of bankruptcy judges increased to \$72,500 per annum, on recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

Salaries of bankruptcy judges increased to \$70,500 effective on first day of first pay period beginning on or after Jan. 1, 1987, by Ex. Ord. No. 12578, Dec. 31, 1986, 52 F.R. 505, formerly set out as a note under section 5332 of Title 5, Government Organization and Employees.

1985 - Salaries of bankruptcy judges increased to \$68,400 effective on first day of first pay period beginning on or after Jan. 1, 1985, by Ex. Ord. No. 12496, Dec. 28, 1984, 50 F.R. 211, as amended by Ex. Ord. No. 12540, Dec. 30, 1985, 51 F.R. 577, formerly set out as a note under section 5332 of Title 5.

1984 - Salaries of bankruptcy judges (full-time) and bankruptcy judges (part-time) (maximum rate) increased to \$66,100 and \$33,100, respectively, effective on first day of first pay period beginning on or after Jan. 1, 1984, by Ex. Ord. No. 12456, Dec. 30, 1983, 49 F.R. 347, as amended Ex. Ord. No. 12477, May 23, 1984, 49 F.R. 22041; Ex. Ord. No. 12487, Sept. 14, 1984, 49 F.R. 36493, formerly set out as a note under section 5332 of Title 5.

1982 - Salaries of bankruptcy judges and referees in bankruptcy (full-time), or referees in bankruptcy (part-time) (maximum rate) increased to \$63,600 and \$31,800, respectively, effective on first day of first pay period beginning on or after Oct. 1, 1982, by Ex. Ord. No. 12387, Oct. 8, 1982, 47 F.R. 44981, formerly set out as a note under section 5332 of Title 5. Ex. Ord. No. 12387 further provided that pursuant to section 101(e) of Pub. L. 97-276 funds are not available to pay a salary at a rate which exceeds the rate in effect on Sept. 30, 1982, which was \$58,500 for bankruptcy judges and referees in bankruptcy (full-time), and \$30,600 for referees in bankruptcy (part-time) (maximum rate).

Maximum rate payable to bankruptcy judges after Dec. 17, 1982,

To look up a section, use this format: **28 USC Sec. #**

increased from \$58,500 to \$63,600, see Pub. L. 97-377, title I, Sec. 129(b)-(d), Dec. 21, 1982, 96 Stat. 1914, set out as a note under section 5318 of Title 5.

1981 - Salaries of bankruptcy judges and referees in bankruptcy (full-time), or referees in bankruptcy (part-time) (maximum rate) increased to \$61,200 and \$30,600, respectively, effective on first day of first pay period beginning on or after Oct. 1, 1981, by Ex. Ord. No. 12330, Oct. 15, 1981, 46 F.R. 50921, formerly set out as a note under section 5332 of Title 5. Ex. Ord. No. 12330 further provided that pursuant to section 101(c) of Pub. L. 97-51 funds are not available to pay a salary at a rate which exceeds the rate in effect on Sept. 30, 1981, which was \$51,167.50 for bankruptcy judges and referees in bankruptcy (full-time), and \$25,583.75 for referees in bankruptcy (part-time) (maximum rate).

1980 - Salaries of bankruptcy judges and referees in bankruptcy (full-time), or referees in bankruptcy (part-time) (maximum rate) increased to \$58,400 and \$29,200, respectively, effective on first day of first pay period beginning on or after Oct. 1, 1980, by Ex. Ord. No. 12248, Oct. 16, 1980, 45 F.R. 69199, formerly set out as a note under section 5332 of Title 5. Ex. Ord. No. 12248 further provided that pursuant to section 101(c) of Pub. L. 96-369 funds are not available to pay a salary which exceeds the rate in effect on Sept. 30, 1980, which was \$51,167.50 for bankruptcy judges and referees in bankruptcy (full-time), and \$25,583.75 for referees in bankruptcy (part-time) (maximum rate).

For limitations on use of funds for period Oct. 1, 1980 through June 5, 1981, appropriated by any Act to pay the salary or pay of any individual in legislative, executive, or judicial branch in position equal to or above level V of the Executive Schedule, see section 101(c) of Pub. L. 96-369 and section 101(c) of Pub. L. 96-536, set out as notes under section 5318 of Title 5.

1979 - Salaries of bankruptcy judges increased to \$53,500 effective on first day of first pay period beginning on or after Oct. 1, 1979, by Ex. Ord. No. 12165, Oct. 9, 1979, 44 F.R. 58671, as amended by Ex. Ord. No. 12200, Mar. 12, 1980, 45 F.R. 16443, formerly set out as a note under section 5332 of Title 5. Ex. Ord. No. 12165 further provided that pursuant to Pub. L. 96-86 funds appropriated for fiscal year 1980 may not be used to pay a salary at a rate which exceeds an increase of 5.5 percent over the applicable rate payable for such position or office in effect on Sept. 30, 1978, which was \$51,167.50 for bankruptcy judges.

-End-

To look up a section, use this format: **28 USC Sec. #**

-CITE-

28 USC Sec. 154

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 6 - BANKRUPTCY JUDGES

-HEAD-

Sec. 154. Division of businesses; chief judge

-STATUTE-

(a) Each bankruptcy court for a district having more than one bankruptcy judge shall by majority vote promulgate rules for the division of business among the bankruptcy judges to the extent that the division of business is not otherwise provided for by the rules of the district court.

(b) In each district court having more than one bankruptcy judge the district court shall designate one judge to serve as chief judge of such bankruptcy court. Whenever a majority of the judges of such district court cannot agree upon the designation as chief judge, the chief judge of such district court shall make such designation. The chief judge of the bankruptcy court shall ensure that the rules of the bankruptcy court and of the district court are observed and that the business of the bankruptcy court is handled effectively and expeditiously.

-SOURCE-

(Added Pub. L. 98-353, title I, Sec. 104(a), July 10, 1984, 98 Stat. 339.)

-End-

-CITE-

28 USC Sec. 155

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 6 - BANKRUPTCY JUDGES

-HEAD-

Sec. 155. Temporary transfer of bankruptcy judges

To look up a section, use this format: **28 USC Sec. #**

-STATUTE-

(a) A bankruptcy judge may be transferred to serve temporarily as a bankruptcy judge in any judicial district other than the judicial district for which such bankruptcy judge was appointed upon the approval of the judicial council of each of the circuits involved.

(b) A bankruptcy judge who has retired may, upon consent, be recalled to serve as a bankruptcy judge in any judicial district by the judicial council of the circuit within which such district is located. Upon recall, a bankruptcy judge may receive a salary for such service in accordance with regulations promulgated by the Judicial Conference of the United States, subject to the restrictions on the payment of an annuity in section 377 of this title or in subchapter III of chapter 83, and chapter 84, of title 5 which are applicable to such judge.

-SOURCE-

(Added Pub. L. 98-353, title I, Sec. 104(a), July 10, 1984, 98 Stat. 339; amended Pub. L. 99-651, title II, Sec. 202(a), Nov. 14, 1986, 100 Stat. 3648; Pub. L. 100-659, Sec. 4(a), Nov. 15, 1988, 102 Stat. 3918.)

-MISC1-

AMENDMENTS

1988 - Subsec. (b). Pub. L. 100-659 inserted "section 377 of this title or in" after "annuity in" and "which are applicable to such judge" after "title 5".

1986 - Subsec. (b). Pub. L. 99-651 inserted reference to chapter 84 of title 5.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-659 effective Nov. 15, 1988, and applicable to bankruptcy judges and magistrate judges who retire on or after Nov. 15, 1988, with exception for judges and magistrate judges retiring on or after July 31, 1987, see section 9 of Pub. L. 100-659, as amended, set out as an Effective Date note under section 377 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 203 of title II of Pub. L. 99-651 provided that: "This title and the amendments made by this title [enacting section 375 of this title and amending this section and sections 374, 631, 633, 636, and 797 of this title] take effect on January 1, 1987."

-End-

To look up a section, use this format: **28 USC Sec. #**

-CITE-

28 USC Sec. 156

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 6 - BANKRUPTCY JUDGES

-HEAD-

Sec. 156. Staff; expenses

-STATUTE-

(a) Each bankruptcy judge may appoint a secretary, a law clerk, and such additional assistants as the Director of the Administrative Office of the United States Courts determines to be necessary. A law clerk appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, unless specifically included by the appointing judge or by local rule of court.

(b) Upon certification to the judicial council of the circuit involved and to the Director of the Administrative Office of the United States Courts that the number of cases and proceedings pending within the jurisdiction under section 1334 of this title within a judicial district so warrants, the bankruptcy judges for such district may appoint an individual to serve as clerk of such bankruptcy court. The clerk may appoint, with the approval of such bankruptcy judges, and in such number as may be approved by the Director, necessary deputies, and may remove such deputies with the approval of such bankruptcy judges.

(c) Any court may utilize facilities or services, either on or off the court's premises, which pertain to the provision of notices, dockets, calendars, and other administrative information to parties in cases filed under the provisions of title 11, United States Code, where the costs of such facilities or services are paid for out of the assets of the estate and are not charged to the United States. The utilization of such facilities or services shall be subject to such conditions and limitations as the pertinent circuit council may prescribe.

(d) No office of the bankruptcy clerk of court may be consolidated with the district clerk of court office without the prior approval of the Judicial Conference and the Congress.

(e) In a judicial district where a bankruptcy clerk has been appointed pursuant to subsection (b), the bankruptcy clerk shall be the official custodian of the records and dockets of the bankruptcy

To look up a section, use this format: **28 USC Sec. #**

court.

(f) For purposes of financial accountability in a district where a bankruptcy clerk has been certified, such clerk shall be accountable for and pay into the Treasury all fees, costs, and other monies collected by such clerk except uncollected fees not required by an Act of Congress to be prepaid. Such clerk shall make returns thereof to the Director of the Administrative Office of the United States Courts and the Director of the Executive Office For United States Trustees, under regulations prescribed by such Directors.

-SOURCE-

(Added Pub. L. 98-353, title I, Sec. 104(a), July 10, 1984, 98 Stat. 339; amended Pub. L. 99-554, title I, Secs. 103, 142, 144(a), Oct. 27, 1986, 100 Stat. 3090, 3096; Pub. L. 100-702, title X, Sec. 1003(a)(3), Nov. 19, 1988, 102 Stat. 4665.)

-MISC1-

AMENDMENTS

1988 - Subsec. (a). Pub. L. 100-702 inserted at end "A law clerk appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, unless specifically included by the appointing judge or by local rule of court."

1986 - Subsec. (d). Pub. L. 99-554, Sec. 103, added subsec. (d).
Subsecs. (e), (f). Pub. L. 99-554, Secs. 142, 144(a), added subsecs. (e) and (f).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 103 of Pub. L. 99-554 effective Oct. 27, 1986, and amendment by sections 142 and 144 of Pub. L. 99-554 effective 30 days after Oct. 27, 1986, see section 302(a), (b) of Pub. L. 99-554, set out as a note under section 581 of this title.

-End-

-CITE-

28 USC Sec. 157

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 6 - BANKRUPTCY JUDGES

To look up a section, use this format: **28 USC Sec. #**

-HEAD-

Sec. 157. Procedures

-STATUTE-

(a) Each district court may provide that any or all cases under title 11 and any or all proceedings arising under title 11 or arising in or related to a case under title 11 shall be referred to the bankruptcy judges for the district.

(b)(1) Bankruptcy judges may hear and determine all cases under title 11 and all core proceedings arising under title 11, or arising in a case under title 11, referred under subsection (a) of this section, and may enter appropriate orders and judgments, subject to review under section 158 of this title.

(2) Core proceedings include, but are not limited to -

(A) matters concerning the administration of the estate;

(B) allowance or disallowance of claims against the estate or exemptions from property of the estate, and estimation of claims or interests for the purposes of confirming a plan under chapter 11, 12, or 13 of title 11 but not the liquidation or estimation of contingent or unliquidated personal injury tort or wrongful death claims against the estate for purposes of distribution in a case under title 11;

(C) counterclaims by the estate against persons filing claims against the estate;

(D) orders in respect to obtaining credit;

(E) orders to turn over property of the estate;

(F) proceedings to determine, avoid, or recover preferences;

(G) motions to terminate, annul, or modify the automatic stay;

(H) proceedings to determine, avoid, or recover fraudulent conveyances;

(I) determinations as to the dischargeability of particular debts;

(J) objections to discharges;

(K) determinations of the validity, extent, or priority of liens;

(L) confirmations of plans;

(M) orders approving the use or lease of property, including the use of cash collateral;

(N) orders approving the sale of property other than property resulting from claims brought by the estate against persons who have not filed claims against the estate; and

(O) other proceedings affecting the liquidation of the assets of the estate or the adjustment of the debtor-creditor or the equity security holder relationship, except personal injury tort or wrongful death claims.

To look up a section, use this format: **28 USC Sec. #**

(3) The bankruptcy judge shall determine, on the judge's own motion or on timely motion of a party, whether a proceeding is a core proceeding under this subsection or is a proceeding that is otherwise related to a case under title 11. A determination that a proceeding is not a core proceeding shall not be made solely on the basis that its resolution may be affected by State law.

(4) Non-core proceedings under section 157(b)(2)(B) of title 28, United States Code, shall not be subject to the mandatory abstention provisions of section 1334(c)(2).

(5) The district court shall order that personal injury tort and wrongful death claims shall be tried in the district court in which the bankruptcy case is pending, or in the district court in the district in which the claim arose, as determined by the district court in which the bankruptcy case is pending.

(c)(1) A bankruptcy judge may hear a proceeding that is not a core proceeding but that is otherwise related to a case under title 11. In such proceeding, the bankruptcy judge shall submit proposed findings of fact and conclusions of law to the district court, and any final order or judgment shall be entered by the district judge after considering the bankruptcy judge's proposed findings and conclusions and after reviewing de novo those matters to which any party has timely and specifically objected.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, the district court, with the consent of all the parties to the proceeding, may refer a proceeding related to a case under title 11 to a bankruptcy judge to hear and determine and to enter appropriate orders and judgments, subject to review under section 158 of this title.

(d) The district court may withdraw, in whole or in part, any case or proceeding referred under this section, on its own motion or on timely motion of any party, for cause shown. The district court shall, on timely motion of a party, so withdraw a proceeding if the court determines that resolution of the proceeding requires consideration of both title 11 and other laws of the United States regulating organizations or activities affecting interstate commerce.

(e) If the right to a jury trial applies in a proceeding that may be heard under this section by a bankruptcy judge, the bankruptcy judge may conduct the jury trial if specially designated to exercise such jurisdiction by the district court and with the express consent of all the parties.

-SOURCE-

(Added Pub. L. 98-353, title I, Sec. 104(a), July 10, 1984, 98 Stat. 340; amended Pub. L. 99-554, title I, Secs. 143, 144(b), Oct. 27, 1986, 100 Stat. 3096; Pub. L. 103-394, title I, Sec. 112, Oct.

To look up a section, use this format: **28 USC Sec. #**

22, 1994, 108 Stat. 4117.)

-MISC1-

AMENDMENTS

1994 - Subsec. (e). Pub. L. 103-394 added subsec. (e).

1986 - Subsec. (b)(2). Pub. L. 99-554, in subpar. (B) substituted "interests" for "interest" and inserted reference to chapter 12, and in subpar. (G) inserted a comma after "annul".

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-394 effective Oct. 22, 1994, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before Oct. 22, 1994, see section 702 of Pub. L. 103-394, set out as a note under section 101 of Title 11.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-554 effective 30 days after Oct. 27, 1986, see section 302(a) of Pub. L. 99-554, set out as a note under section 581 of this title.

-End-

-CITE-

28 USC Sec. 158

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 6 - BANKRUPTCY JUDGES

-HEAD-

Sec. 158. Appeals

-STATUTE-

(a) The district courts of the United States shall have jurisdiction to hear appeals (!1)

(1) from final judgments, orders, and decrees;

(2) from interlocutory orders and decrees issued under section 1121(d) of title 11 increasing or reducing the time periods referred to in section 1121 of such title; and

(3) with leave of the court, from other interlocutory orders and decrees;

To look up a section, use this format: **28 USC Sec. #**

and, with leave of the court, from interlocutory orders and decrees, of bankruptcy judges entered in cases and proceedings referred to the bankruptcy judges under section 157 of this title. An appeal under this subsection shall be taken only to the district court for the judicial district in which the bankruptcy judge is serving.

(b)(1) The judicial council of a circuit shall establish a bankruptcy appellate panel service composed of bankruptcy judges of the districts in the circuit who are appointed by the judicial council in accordance with paragraph (3), to hear and determine, with the consent of all the parties, appeals under subsection (a) unless the judicial council finds that -

(A) there are insufficient judicial resources available in the circuit; or

(B) establishment of such service would result in undue delay or increased cost to parties in cases under title 11.

Not later than 90 days after making the finding, the judicial council shall submit to the Judicial Conference of the United States a report containing the factual basis of such finding.

(2)(A) A judicial council may reconsider, at any time, the finding described in paragraph (1).

(B) On the request of a majority of the district judges in a circuit for which a bankruptcy appellate panel service is established under paragraph (1), made after the expiration of the 1-year period beginning on the date such service is established, the judicial council of the circuit shall determine whether a circumstance specified in subparagraph (A) or (B) of such paragraph exists.

(C) On its own motion, after the expiration of the 3-year period beginning on the date a bankruptcy appellate panel service is established under paragraph (1), the judicial council of the circuit may determine whether a circumstance specified in subparagraph (A) or (B) of such paragraph exists.

(D) If the judicial council finds that either of such circumstances exists, the judicial council may provide for the completion of the appeals then pending before such service and the orderly termination of such service.

(3) Bankruptcy judges appointed under paragraph (1) shall be appointed and may be reappointed under such paragraph.

(4) If authorized by the Judicial Conference of the United States, the judicial councils of 2 or more circuits may establish a joint bankruptcy appellate panel comprised of bankruptcy judges from the districts within the circuits for which such panel is established, to hear and determine, upon the consent of all the

To look up a section, use this format: **28 USC Sec. #**

parties, appeals under subsection (a) of this section.

(5) An appeal to be heard under this subsection shall be heard by a panel of 3 members of the bankruptcy appellate panel service, except that a member of such service may not hear an appeal originating in the district for which such member is appointed or designated under section 152 of this title.

(6) Appeals may not be heard under this subsection by a panel of the bankruptcy appellate panel service unless the district judges for the district in which the appeals occur, by majority vote, have authorized such service to hear and determine appeals originating in such district.

(c)(1) Subject to subsection (b), each appeal under subsection (a) shall be heard by a 3-judge panel of the bankruptcy appellate panel service established under subsection (b)(1) unless -

(A) the appellant elects at the time of filing the appeal; or

(B) any other party elects, not later than 30 days after service of notice of the appeal;

to have such appeal heard by the district court.

(2) An appeal under subsections (a) and (b) of this section shall be taken in the same manner as appeals in civil proceedings generally are taken to the courts of appeals from the district courts and in the time provided by Rule 8002 of the Bankruptcy Rules.

(d) The courts of appeals shall have jurisdiction of appeals from all final decisions, judgments, orders, and decrees entered under subsections (a) and (b) of this section.

-SOURCE-

(Added Pub. L. 98-353, title I, Sec. 104(a), July 10, 1984, 98 Stat. 341; amended Pub. L. 101-650, title III, Sec. 305, Dec. 1, 1990, 104 Stat. 5105; Pub. L. 103-394, title I, Secs. 102, 104(c), (d), Oct. 22, 1994, 108 Stat. 4108-4110.)

-REFTEXT-

REFERENCES IN TEXT

The Bankruptcy Rules, referred to in subsec. (c)(2), are set out in the Appendix to Title 11, Bankruptcy.

-MISC1-

AMENDMENTS

1994 - Subsec. (a). Pub. L. 103-394, Sec. 102, which directed the amendment of subsec. (a) by striking "from" the first place it appears and all that follows through "decrees," and inserting pars. (1) to (3), was executed by making the insertion and striking after

To look up a section, use this format: **28 USC Sec. #**

"appeals" "from final judgments, orders, and decrees," which is through "decrees," the first place appearing, to reflect the probable intent of Congress.

Subsec. (b)(1). Pub. L. 103-394, Sec. 104(c)(3), added par. (1) and struck out former par. (1) which read as follows: "The judicial council of a circuit may establish a bankruptcy appellate panel, comprised of bankruptcy judges from districts within the circuit, to hear and determine, upon the consent of all the parties, appeals under subsection (a) of this section."

Subsec. (b)(2). Pub. L. 103-394, Sec. 104(c)(3), added par. (2). Former par. (2) redesignated (4).

Subsec. (b)(3). Pub. L. 103-394, Sec. 104(c)(1), (3), added par. (3) and struck out former par. (3) which read as follows: "No appeal may be referred to a panel under this subsection unless the district judges for the district, by majority vote, authorize such referral of appeals originating within the district."

Subsec. (b)(4). Pub. L. 103-394, Sec. 104(c)(1), (2), redesignated par. (2) as (4) and struck out former par. (4) which read as follows: "A panel established under this section shall consist of three bankruptcy judges, provided a bankruptcy judge may not hear an appeal originating within a district for which the judge is appointed or designated under section 152 of this title."

Subsec. (b)(5), (6). Pub. L. 103-394, Sec. 104(c)(4), added pars. (5) and (6).

Subsec. (c). Pub. L. 103-394, Sec. 104(d), designated existing provisions as par. (2) and added par. (1).

1990 - Subsec. (b)(2) to (4). Pub. L. 101-650 added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-394 effective Oct. 22, 1994, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before Oct. 22, 1994, see section 702 of Pub. L. 103-394, set out as a note under section 101 of Title 11.

-FOOTNOTE-

(1) So in original. Probably should be followed by a dash.

-End-

-CITE-

28 USC CHAPTER 7 - UNITED STATES COURT OF FEDERAL CLAIMS 01/03/05

-EXPCITE-

To look up a section, use this format: **28 USC Sec. #**

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 7 - UNITED STATES COURT OF FEDERAL CLAIMS

-HEAD-

CHAPTER 7 - UNITED STATES COURT OF FEDERAL CLAIMS

-MISC1-

Sec.

- 171. Appointment and number of judges; character of court; designation of chief judge.
- 172. Tenure and salaries of judges.
- 173. Times and places of holding court.
- 174. Assignment of judges; decisions.
- 175. Official duty station; residence.
- 176. Removal from office.
- 177. Disbarment of removed judges.
- 178. Retirement of judges of the Court of Federal Claims.
- 179. Personnel application and insurance programs.
- [180. Repealed.]

AMENDMENTS

2000 - Pub. L. 106-518, title III, Sec. 309(b), Nov. 13, 2000, 114 Stat. 2420, substituted "Personnel application and insurance programs" for "Insurance and annuities programs" in item 179.

Pub. L. 106-398, Sec. 1 [[div. A], title VI, Sec. 654(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-165, struck out item 180 "Military retirement pay for retired judges".

1992 - Pub. L. 102-572, title IX, Secs. 902(a), 903(b), Oct. 29, 1992, 106 Stat. 4516, 4517, substituted "UNITED STATES COURT OF FEDERAL CLAIMS" for "UNITED STATES CLAIMS COURT" as chapter heading, substituted "Court of Federal Claims" for "Claims Court" in item 178, and added items 179 and 180.

1990 - Pub. L. 101-650, title III, Sec. 306(a)(2), Dec. 1, 1990, 104 Stat. 5109, added item 178.

1982 - Pub. L. 97-164, title I, Sec. 105(a), Apr. 2, 1982, 96 Stat. 26, substituted "UNITED STATES CLAIMS COURT" for "COURT OF CLAIMS" as chapter heading, inserted "; designation of chief judge" in item 171, substituted "Tenure and salaries of judges" for "Precedence of judges" in item 172, substituted "Times and places of holding court" for "Tenure and salaries of judges" in item 173, substituted "Assignment of judges; decisions" for "Terms" in item 174, substituted "Official duty station; residence" for "Assignment of judges; divisions; hearings; quorum; decisions" in item 175, and added items 176 and 177.

1966 - Pub. L. 89-425, Sec. 3, May 11, 1966, 80 Stat. 140,

To look up a section, use this format: **28 USC Sec. #**

substituted "Assignment of judges; divisions; hearings; quorum; decisions" for "Quorum" in item 175.

1954 - Act Sept. 3, 1954, ch. 1263, Sec. 38, 68 Stat. 1240, inserted "; character of court" in item 171.

-CROSS-

RULES OF THE UNITED STATES COURT OF FEDERAL CLAIMS

See Appendix to this title.

-End-

-CITE-

28 USC Sec. 171

01/03/05

-EXPCITE-

**TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 7 - UNITED STATES COURT OF FEDERAL CLAIMS**

-HEAD-

Sec. 171. Appointment and number of judges; character of court; designation of chief judge

-STATUTE-

(a) The President shall appoint, by and with the advice and consent of the Senate, sixteen judges who shall constitute a court of record known as the United States Court of Federal Claims. The court is declared to be a court established under article I of the Constitution of the United States.

(b) The President shall designate one of the judges of the Court of Federal Claims who is less than seventy years of age to serve as chief judge. The chief judge may continue to serve as such until he reaches the age of seventy years or until another judge is designated as chief judge by the President. After the designation of another judge to serve as chief judge, the former chief judge may continue to serve as a judge of the court for the balance of the term to which appointed.

-SOURCE-

(June 25, 1948, ch. 646, 62 Stat 898; July 28, 1953, ch. 253, Sec. 1, 67 Stat. 226; Sept. 3, 1954, ch. 1263, Sec. 39(a), 68 Stat. 1240; Pub. L. 89-425, Sec. 1(b), May 11, 1966, 80 Stat. 140; Pub. L. 97-164, title I, Sec. 105(a), Apr. 2, 1982, 96 Stat. 27; Pub. L. 102-572, title IX, Sec. 902(a), Oct. 29, 1992, 106 Stat. 4516.)

To look up a section, use this format: **28 USC Sec. #**

-MISC1-

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed. Sec. 241 (Mar. 3, 1911, ch. 231, Sec. 136, 36 Stat. 1135; Feb. 25, 1919, ch. 29, Sec. 4, 40 Stat. 1157; Dec. 13, 1926, ch. 6, Sec. 1 44 Stat. 919).

This section contains a part of section 241 of title 28, U.S.C., 1940 ed. The remainder of such section, relating to tenure, salaries and oath, is incorporated in sections 173 and 453 of this title.

The term "chief judge" was substituted for "Chief Justice." (See reviser's note under section 136 of this title.)

Words "a court of record known as" were added. For similar provision covering other Federal courts, see sections 132, 211, and 251 of this title.

The official status of the Chief Justice of the Court of Claims holding office on the effective date of this act is preserved by section 2 of the bill to enact revised title 28.

Minor changes were made in arrangement and phraseology.

AMENDMENTS

1992 - Pub. L. 102-572 substituted "United States Court of Federal Claims" for "United States Claims Court" in subsec. (a) and "Court of Federal Claims" for "Claims Court" in subsec. (b).

1982 - Pub. L. 97-164 designated existing provisions as subsec. (a), substituted "sixteen judges who shall constitute a court of record known as the United States Claims Court" for "a chief judge and six associate judges who shall constitute a court of record known as the United States Court of Claims" and "The court is declared to be a court established under article I of the Constitution of the United States" for "Such court is hereby declared to be a court established under article III of the Constitution of the United States" in subsec. (a) as so designated, and added subsec. (b).

1966 - Pub. L. 89-425 increased the number of associate judges from four to six.

1954 - Act Sept. 3, 1954, inserted "; character or court" in section catchline.

1953 - Act July 28, 1953, inserted second sentence.

-CHANGE-

CHANGE OF NAME

Section 902(b) of Pub. L. 102-572 provided that: "Reference in any other Federal law [meaning any Federal law other than chapters 7, 51, 91, and 165 of this title] or any document to -

To look up a section, use this format: **28 USC Sec. #**

"(1) the 'United States Claims Court' shall be deemed to refer to the 'United States Court of Federal Claims'; and

"(2) the 'Claims Court' shall be deemed to refer to the 'Court of Federal Claims'."

-MISC2-

EFFECTIVE DATE OF 1992 AMENDMENT

Section 911 of title IX of Pub. L. 102-572 provided that: "This title [see Tables for classification] and the amendments made by this title shall take effect on the date of the enactment of this Act [Oct. 29, 1992]."

EFFECTIVE DATE OF 1982 AMENDMENT

Section 402 of Pub. L. 97-164 provided that: "Unless otherwise specified, the provisions of this Act [see Short Title of 1982 Amendment note set out under section 1 of this title] shall take effect on October 1, 1982."

CONTINUED SERVICE OF COMMISSIONERS OF COURT OF CLAIMS AS JUDGES

Section 167 of Pub. L. 97-164 provided that Commissioners of United States Court of Claims serving immediately prior to Oct. 1, 1982, became judges of United States Claims Court [now United States Court of Federal Claims] on such date, with initial terms expiring 15 years after date of employment or on Oct. 1, 1986, whichever occurred earlier, and with salaries equal to salaries of Commissioners of Court of Claims.

TENNESSEE VALLEY AUTHORITY LEGAL REPRESENTATION

Section 169 of Pub. L. 97-164 provided that: "Nothing in this Act [see Short Title of 1982 Amendment note set out under section 1 of this title] affects the authority of the Tennessee Valley Authority under the Tennessee Valley Authority Act of 1933 [16 U.S.C. 831 et seq.] to represent itself by attorneys of its choosing."

TRANSITION PROVISIONS: TRANSFER OF PENDING CASES

Section 403 of Pub. L. 97-164 provided for transfer of cases or matters pending on Oct. 1, 1982, before Court of Claims or United States Court of Customs and Patent Appeals to United States Court of Appeals for the Federal Circuit, directed that petitions for rehearing, reconsideration, or other changes in decisions of Court of Claims or United States Court of Customs and Patent Appeals rendered prior to such date be determined by United States Court of Appeals for the Federal Circuit, directed that matters pending before Commissioners of United States Court of Claims on such date be determined by United States Claims Court [now United States

To look up a section, use this format: **28 USC Sec. #**

Court of Federal Claims], and directed that any case in which notice of appeal had been filed in district court of United States prior to such date would be decided by court of appeals to which the appeal was taken.

CONGRESSIONAL STATEMENT REGARDING APPOINTMENT OF JUDGES

For Congressional suggestion that the President select nominees for judgeships on the Claims Court [now Court of Federal Claims] and the Court of Appeals for the Federal Circuit from a broad range of qualified individuals, see section 168 of Pub. L. 97-164, set out as a note under section 44 of this title.

-End-

-CITE-

28 USC Sec. 172

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 7 - UNITED STATES COURT OF FEDERAL CLAIMS

-HEAD-

Sec. 172. Tenure and salaries of judges

-STATUTE-

(a) Each judge of the United States Court of Federal Claims shall be appointed for a term of fifteen years.

(b) Each judge shall receive a salary at the rate of pay, and in the same manner, as judges of the district courts of the United States.

-SOURCE-

(June 25, 1948, ch. 646, 62 Stat. 898; Pub. L. 97-164, title I, Sec. 105(a), Apr. 2, 1982, 96 Stat. 27; Pub. L. 100-702, title X, Sec. 1023, Nov. 19, 1988, 102 Stat. 4673; Pub. L. 102-572, title IX, Sec. 902(a)(1), Oct. 29, 1992, 106 Stat. 4516.)

-MISC1-

HISTORICAL AND REVISION NOTES

This section applies to the judges of the Court of Claims the same rule of precedence applicable to judges of other courts. (See sections 45, 136, 212, and 253 of this title.)

To look up a section, use this format: **28 USC Sec. #**

AMENDMENTS

1992 - Subsec. (a). Pub. L. 102-572 substituted "United States Court of Federal Claims" for "United States Claims Court".

1988 - Subsec. (b). Pub. L. 100-702 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Each judge shall receive a salary at an annual rate determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361), as adjusted by section 461 of this title."

1982 - Pub. L. 97-164 amended section generally, substituting provisions relating to tenure and salaries of judges (formerly contained in section 173) for provisions relating to precedence of judges. See section 171 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

SALARY INCREASES

For increases in salaries of judges after Nov. 19, 1988, see notes set out under section 135 of this title relating to salary increases for district judges.

1988 - Salaries of judges continued at \$82,500 per annum by Ex. Ord. No. 12622, Dec. 31, 1987, 53 F.R. 222, formerly set out as a note under section 5332 of Title 5.

1987 - Salaries of judges increased to \$82,500 per annum, on recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

Salaries of judges increased to \$72,300 effective on first day of first pay period beginning on or after Jan. 1, 1987, by Ex. Ord. No. 12578, Dec. 31, 1986, 52 F.R. 505, formerly set out as a note under section 5332 of Title 5, Government Organization and Employees.

1985 - Salaries of judges increased to \$70,200 effective on first day of first pay period beginning on or after Jan. 1, 1985, by Ex. Ord. No. 12496, Dec. 28, 1984, 50 F.R. 211, as amended by Ex. Ord. No. 12540, Dec. 30, 1985, 51 F.R. 577, formerly set out as a note under section 5332 of Title 5.

1984 - Salaries of judges set at \$67,800 effective on first day of first pay period beginning on or after Jan. 1, 1984, by Ex. Ord.

To look up a section, use this format: **28 USC Sec. #**

No. 12456, Dec. 30, 1983, 49 F.R. 347, as amended Ex. Ord. No. 12477, May 23, 1984, 49 F.R. 22041; Ex. Ord. No. 12487, Sept. 14, 1984, 49 F.R. 36493, formerly set out as a note under section 5332 of Title 5.

1982 - Salaries of judges set at \$65,200 effective on first day of first pay period beginning on or after Oct. 1, 1982, by Ex. Ord. No. 12387, Oct. 8, 1982, 47 F.R. 44981, formerly set out as a note under section 5332 of Title 5. Ex. Ord. No. 12387 further provided that pursuant to section 101(e) of Pub. L. 97-276 funds are not available to pay a salary at a rate which exceeds the rate in effect on Sept. 30, 1982, which was \$57,500.

Maximum rate payable after Dec. 17, 1982, increased from \$57,500 to \$65,200, see Pub. L. 97-377, title I, Sec. 129(b)-(d), Dec. 21, 1982, 96 Stat. 1914, set out as a note under section 5318 of Title 5.

Limitations on use of funds for fiscal year ending Sept. 30, 1983, appropriated by any Act to pay the salary or pay of any individual in legislative, executive, or judicial branch in position equal to or above level V of the Executive Schedule, see section 101(e) of Pub. L. 97-276, as amended, set out as a note under section 5318 of Title 5.

1981 - Salaries of judges increased to \$74,300 effective on first day of first pay period beginning on or after Oct. 1, 1981, by Ex. Ord. No. 12330, Oct. 15, 1981, 46 F.R. 50921, formerly set out as a note under section 5332 of Title 5.

Limitations on use of funds for fiscal year ending Sept. 30, 1982, appropriated by any Act to pay the salary or pay of any individual in legislative, executive, or judicial branch in position equal to or above level V of the Executive Schedule, see sections 101(g) and 141 of Pub. L. 97-92, set out as a note under section 5318 of Title 5.

1980 - Salaries of judges increased to \$70,900 effective on first day of first pay period beginning on or after Oct. 1, 1980, by Ex. Ord. No. 12248, Oct. 16, 1980, 45 F.R. 69199, formerly set out as a note under section 5332 of Title 5. Ex. Ord. No. 12248 further provided that pursuant to Pub. L. 96-369 funds are not available to pay a salary at a rate which exceeds the rate in effect on Sept. 30, 1980, which was \$60,662.50.

Limitations on use of funds for fiscal year ending Sept. 30, 1981, appropriated by any Act to pay the salary or pay of any individual in legislative, executive, or judicial branch in position equal to or above level V of the Executive Schedule, see section 101(c) of Pub. L. 96-536, as amended, set out as a note under section 5318 of Title 5.

1979 - Salaries of judges increased to \$65,000 effective on first day of first pay period beginning on or after Oct. 1, 1979, by Ex.

To look up a section, use this format: **28 USC Sec. #**

Ord. No. 12165, Oct. 9, 1979, 44 F.R. 58671, as amended by Ex. Ord. No. 12200, Mar. 12, 1980, 45 F.R. 16443, formerly set out as a note under section 5332 of Title 5. Ex. Ord. No. 12165 further provided that pursuant to Pub. L. 96-86 funds appropriated for fiscal year 1980 may not be used to pay a salary at a rate which exceeds an increase of 5.5 percent over the applicable rate payable for such position or office in effect on Sept. 30, 1978, which was \$60,662.50.

Applicability to funds appropriated by any Act for fiscal year ending Sept. 30, 1980, of limitation of section 304 of Pub. L. 95-391 on use of funds to pay the salary or pay of any individual in legislative, executive, or judicial branch in position equal to or above Level V of the Executive Schedule, see section 101 of Pub. L. 96-86, set out as a note under section 5318 of Title 5.

1978 - Salaries of judges increased to \$60,700 effective on first day of first pay period beginning on or after Oct. 1, 1978, by Ex. Ord. No. 12087, Oct. 7, 1978, 43 F.R. 46823, formerly set out as a note under section 5332 of Title 5. Ex. Ord. No. 12087 further provided that pursuant to the Legislative Branch Appropriation Act, 1979 [Pub. L. 95-391, title III, Sec. 304, Sept. 30, 1978, 92 Stat. 788, set out as a note under section 5318 of Title 5], funds are not available to pay a salary at a rate which exceeds the rate in effect on Sept. 30, 1978, which was \$57,500.

1977 - Salaries of judges increased to \$57,500 per annum, on recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

1976 - Salaries of judges increased to \$46,800 effective on first day of first pay period beginning on or after Oct. 1, 1976, see Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43889, formerly set out as a note under section 5332 of Title 5, Government Organization and Employees. Ex. Ord. No. 11941, further provided that pursuant to the Legislative Branch Appropriation Act, 1977, funds are not available to pay a salary at a rate which exceeds the rate in effect on Sept. 30, 1976, which was \$44,600.

1969 - Salaries of judges increased from \$33,000 to \$42,500 per annum, commencing Feb. 14, 1969, on recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

1946 - Salaries of chief judge and associate judges increased from \$12,500 to \$17,500 a year by act July 31, 1946, ch. 704, Sec. 1, 60 Stat. 716.

1926 - Salary of Chief Justice, now chief judge, increased from \$8,000 to \$12,500 a year, and salaries of associate justices, now judges, increased from \$7,500 to \$12,500 a year by act Dec. 13, 1926, ch. 6, Sec. 1, 44 Stat. 919.

1919 - Salary of Chief Justice increased from \$6,500 to \$8,000 a

To look up a section, use this format: **28 USC Sec. #**

year, and salaries of associate justices increased from \$6,000 to \$7,500 a year by act Feb. 25, 1919, ch. 29, Sec. 1, 40 Stat. 1156.

1911 - Salary of chief justice set at \$6,500, and salaries of associate justices set at \$6,000 by Judicial Code of 1911, act Mar. 3, 1911, ch. 231, Sec. 1, 36 Stat. 1135.

-End-

-CITE-

28 USC Sec. 173

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 7 - UNITED STATES COURT OF FEDERAL CLAIMS

-HEAD-

Sec. 173. Times and places of holding court

-STATUTE-

The principal office of the United States Court of Federal Claims shall be in the District of Columbia, but the Court of Federal Claims may hold court at such times and in such places as it may fix by rule of court. The times and places of the sessions of the Court of Federal Claims shall be prescribed with a view to securing reasonable opportunity to citizens to appear before the Court of Federal Claims with as little inconvenience and expense to citizens as is practicable.

-SOURCE-

(June 25, 1948, ch. 646, 62 Stat. 898; Mar. 2, 1955, ch. 9, Sec. 1(d), 69 Stat. 10; Pub. L. 88-426, title IV, Sec. 403(d), Aug. 14, 1964, 78 Stat. 434; Pub. L. 94-82, title II, Sec. 205(b)(4), Aug. 9, 1975, 89 Stat. 422; Pub. L. 97-164, title I, Sec. 105(a), Apr. 2, 1982, 96 Stat. 27; Pub. L. 102-572, title IX, Sec. 902(a), Oct. 29, 1992, 106 Stat. 4516.)

-MISC1-

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., Sec. 241 (Mar. 3, 1911, ch. 231, Sec. 136, 36 Stat. 1135; Feb. 25, 1919, ch. 29, Sec. 4, 40 Stat. 1157; Dec. 13, 1926, ch. 6, Sec. 1, 44 Stat. 919; July 31, 1946, ch. 704, Sec. 1, 60 Stat. 716).

To look up a section, use this format: **28 USC Sec. #**

This section is based on part of section 241 of title 28, U.S.C., 1940 ed. That portion relating to number, appointment of judges and their oaths, is incorporated in sections 171 and 453 of this title.

A provision for monthly salary payments was omitted since time of payment is a matter for administrative determination. (See 20 Comp. Gen. 834.)

The term "chief judge" was substituted for "Chief Justice." (See reviser's note under section 136 of this title.)

Minor changes were made in phraseology.

AMENDMENTS

1992 - Pub. L. 102-572 substituted "United States Court of Federal Claims" for "United States Claims Court" and "Court of Federal Claims" for "Claims Court" in three places.

1982 - Pub. L. 97-164 amended section generally, substituting provisions relating to times and places of holding court (formerly contained in section 174) for provisions relating to the tenure and salaries of judges of the Court of Claims. See section 172 of this title.

1975 - Pub. L. 94-82 substituted provision that the chief judge and associate judges receive a salary at an annual rate determined under section 225 of the Federal Salary Act of 1967, as adjusted by section 461 of this title, for provision granting each such judge a salary of \$33,000 a year.

1964 - Pub. L. 88-426 increased salaries of judges from \$25,500 to \$33,000 a year.

1955 - Act Mar. 2, 1955, increased salaries of judges from \$17,500 to \$25,500 a year.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-426 effective on first day of first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88-426, see section 501 of Pub. L. 88-426.

EFFECTIVE DATE OF 1955 AMENDMENT

To look up a section, use this format: **28 USC Sec. #**

Amendment by act Mar. 2, 1955, effective Mar. 1, 1955, see section 5 of act Mar. 2, 1955, set out as a note under section 31 of Title 2, The Congress.

-End-

-CITE-

28 USC Sec. 174

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 7 - UNITED STATES COURT OF FEDERAL CLAIMS

-HEAD-

Sec. 174. Assignment of judges; decisions

-STATUTE-

(a) The judicial power of the United States Court of Federal Claims with respect to any action, suit, or proceeding, except congressional reference cases, shall be exercised by a single judge, who may preside alone and hold a regular or special session of court at the same time other sessions are held by other judges.

(b) All decisions of the Court of Federal Claims shall be preserved and open to inspection.

-SOURCE-

(June 25, 1948, ch. 646, 62 Stat. 898; Pub. L. 97-164, title I, Sec. 105(a), Apr. 2, 1982, 96 Stat. 27; Pub. L. 102-572, title IX, Sec. 902(a), Oct. 29, 1992, 106 Stat. 4516.)

-MISC1-

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., Sec. 243 (Mar. 3, 1911, ch. 231, Sec. 138, 36 Stat. 1136).

This section is based on the first sentence of section 243 of title 28, U.S.C., 1940 ed. The remainder of said section is incorporated in section 175 of this title.

Words "the seat of government" were substituted for "the city of Washington" to conform to similar language respecting the Supreme Court. (See section 2 of this title.)

Words "to be fixed by rule of court" were added to provide greater flexibility in administering the business of the court. For

To look up a section, use this format: **28 USC Sec. #**

similar provisions covering the district courts, see section 138 of this title.

Word "term" was substituted for "session" for uniformity.

Minor changes were made in phraseology.

AMENDMENTS

1992 - Pub. L. 102-572 substituted "United States Court of Federal Claims" for "United States Claims Court" in subsec. (a) and "Court of Federal Claims" for "Claims Court" in subsec. (b).

1982 - Pub. L. 97-164 amended section generally, substituting provisions relating to assignment of judges (formerly contained in section 175) for provisions relating to terms of court. See section 173 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

-End-

-CITE-

28 USC Sec. 175

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 7 - UNITED STATES COURT OF FEDERAL CLAIMS

-HEAD-

Sec. 175. Official duty station; residence

-STATUTE-

(a) The official duty station of each judge of the United States Court of Federal Claims is the District of Columbia.

(b) After appointment and while in active service, each judge shall reside within fifty miles of the District of Columbia.

(c) Retired judges of the Court of Federal Claims are not subject to restrictions as to residence. The place where a retired judge

To look up a section, use this format: **28 USC Sec. #**

maintains the actual abode in which such judge customarily lives shall be deemed to be the judge's official duty station for the purposes of section 456 of this title.

-SOURCE-

(Added Pub. L. 89-425, Sec. 2, May 11, 1966, 80 Stat. 140; amended Pub. L. 97-164, title I, Sec. 105(a), Apr. 2, 1982, 96 Stat. 27; Pub. L. 102-572, title IX, Sec. 902(a)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 106-518, title III, Sec. 307, Nov. 13, 2000, 114 Stat. 2419.)

-MISC1-

PRIOR PROVISIONS

A prior section 175, act June 25, 1948, ch. 646, 62 Stat. 898, required three judges of the Court of Claims to constitute a quorum and the concurrence of three judges for any decision, prior to repeal by section 2 of Pub. L. 89-425.

AMENDMENTS

2000 - Subsec. (c). Pub. L. 106-518 added subsec. (c).

1992 - Subsec. (a). Pub. L. 102-572 substituted "United States Court of Federal Claims" for "United States Claims Court".

1982 - Pub. L. 97-164 amended section generally, substituting provisions relating to the official duty station and residence of Claims Court judges for provisions relating to assignment of judges, divisions, hearings, quorums and decisions. See section 174 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

-End-

-CITE-

28 USC Sec. 176

01/03/05

To look up a section, use this format: **28 USC Sec. #**

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 7 - UNITED STATES COURT OF FEDERAL CLAIMS

-HEAD-

Sec. 176. Removal from office

-STATUTE-

(a) Removal of a judge of the United States Court of Federal Claims during the term for which he is appointed shall be only for incompetency, misconduct, neglect of duty, engaging in the practice of law, or physical or mental disability. Removal shall be by the United States Court of Appeals for the Federal Circuit, but removal may not occur unless a majority of all the judges of such court of appeals concur in the order of removal.

(b) Before any order of removal may be entered, a full specification of the charges shall be furnished to the judge involved, and such judge shall be accorded an opportunity to be heard on the charges.

(c) Any cause for removal of any judge of the United States Court of Federal Claims coming to the knowledge of the Director of the Administrative Office of the United States Courts shall be reported by him to the chief judge of the United States Court of Appeals for the Federal Circuit, and a copy of the report shall at the same time be transmitted to the judge.

-SOURCE-

(Added Pub. L. 97-164, title I, Sec. 105(a), Apr. 2, 1982, 96 Stat. 28; amended Pub. L. 102-572, title IX, Sec. 902(a)(1), Oct. 29, 1992, 106 Stat. 4516.)

-MISC1-

AMENDMENTS

1992 - Subsecs. (a), (c). Pub. L. 102-572 substituted "United States Court of Federal Claims" for "United States Claims Court".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as an Effective Date of 1982 Amendment note under

To look up a section, use this format: **28 USC Sec. #**

section 171 of this title.

-End-

-CITE-

28 USC Sec. 177

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 7 - UNITED STATES COURT OF FEDERAL CLAIMS

-HEAD-

Sec. 177. Disbarment of removed judges

-STATUTE-

A judge of the United States Court of Federal Claims removed from office in accordance with section 176 of this title shall not be permitted at any time to practice before the Court of Federal Claims.

-SOURCE-

(Added Pub. L. 97-164, title I, Sec. 105(a), Apr. 2, 1982, 96 Stat. 28; amended Pub. L. 102-572, title IX, Sec. 902(a), Oct. 29, 1992, 106 Stat. 4516.)

-MISC1-

AMENDMENTS

1992 - Pub. L. 102-572 substituted "United States Court of Federal Claims" for "United States Claims Court" and "Court of Federal Claims" for "Claims Court".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as an Effective Date of 1982 Amendment note under section 171 of this title.

-End-

To look up a section, use this format: **28 USC Sec. #**

-CITE-

28 USC Sec. 178

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 7 - UNITED STATES COURT OF FEDERAL CLAIMS

-HEAD-

Sec. 178. Retirement of judges of the Court of Federal Claims

-STATUTE-

(a) A judge of the United States Court of Federal Claims who retires from office after attaining the age and meeting the service requirements, whether continuously or otherwise, of this subsection shall, subject to subsection (f), be entitled to receive, during the remainder of the judge's lifetime, an annuity equal to the salary payable to Court of Federal Claims judges in regular active service. The age and service requirements for retirement under this subsection are as follows:

Years of Attained Age:	Service:
65	15
66	14
67	13
68	12
69	11
70	10.

(b) A judge of the Court of Federal Claims who is not reappointed following the expiration of the term of office of such judge, and who retires upon the completion of such term shall, subject to subsection (f), be entitled to receive, during the remainder of such judge's lifetime, an annuity equal to the salary payable to Court of Federal Claims judges in regular active service, if -

(1) such judge has served at least 1 full term as judge of the Court of Federal Claims, and

(2) not earlier than 9 months before the date on which the term of office of such judge expired, and not later than 6 months before such date, such judge advised the President in writing that such judge was willing to accept reappointment as a judge of the Court of Federal Claims.

To look up a section, use this format: **28 USC Sec. #**

(c) A judge of the Court of Federal Claims who has served at least 5 years, whether continuously or otherwise, as such a judge, and who retires or is removed from office upon the sole ground of mental or physical disability shall, subject to subsection (f), be entitled to receive, during the remainder of the judge's lifetime -

(1) an annuity equal to 50 percent of the salary payable to Court of Federal Claims judges in regular active service, if before retirement such judge served less than 10 years, or

(2) an annuity equal to the salary payable to Court of Federal Claims judges in regular active service, if before retirement such judge served at least 10 years.

(d) A judge who retires under subsection (a) or (b) may, at or after such retirement, be called upon by the chief judge of the Court of Federal Claims to perform such judicial duties with the Court of Federal Claims as may be requested of the retired judge for any period or periods specified by the chief judge, except that in the case of any such judge -

(1) the aggregate of such periods in any one calendar year shall not (without his or her consent) exceed 90 calendar days; and

(2) he or she shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a Court of Federal Claims judge in regular active service. Any individual performing judicial duties pursuant to this subsection shall receive the allowances for official travel and other expenses of a judge in regular active service.

(e)(1) Any judge who retires under the provisions of subsection (a) or (b) of this section shall be designated "senior judge".

(2) Any judge who retires under this section shall not be counted as a judge of the Court of Federal Claims for purposes of the number of judgeships authorized by section 171 of this title.

(f)(1) A judge shall be entitled to an annuity under this section if the judge elects an annuity under this section by notifying the Director of the Administrative Office of the United States Courts in writing. Such an election -

(A) may be made only while an individual is a judge of the Court of Federal Claims (except that in the case of an individual who fails to be reappointed as judge at the expiration of a term

To look up a section, use this format: **28 USC Sec. #**

of office, such election may be made at any time before the day after the day on which his or her successor takes office); and

(B) once made, shall, subject to subsection (k), be irrevocable.

(2) A judge who elects to receive an annuity under this section shall not be entitled to receive -

(A) any annuity to which such judge would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, for service performed as a judge or otherwise;

(B) an annuity or salary in senior status or retirement under section 371 or 372 of this title;

(C) retired pay under section 7447 of the Internal Revenue Code of 1986; or

(D) retired pay under section 7296 of title 38.

(g) For purposes of calculating the years of service of an individual under subsections (a) and (c), only those years of service as a judge of the Court of Federal Claims or a commissioner of the United States Court of Claims shall be credited, and that portion of the aggregate number of years of such service that is a fractional part of 1 year shall not be credited if it is less than 6 months, and shall be credited if it is 6 months or more.

(h) An annuity under this section shall be payable at the times and in the same manner as the salary of a Court of Federal Claims judge in regular active service. Such annuity shall begin to accrue on the day following the day on which the annuitant's salary as a judge in regular active service ceases to accrue.

(i)(1) Payments under this section which would otherwise be made to a judge of the Court of Federal Claims based upon his or her service shall be paid (in whole or in part) by the Director of the Administrative Office of the United States Courts to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

(2) Paragraph (1) shall apply only to payments made by the Director of the Administrative Office of the United States Courts after the date of receipt by the Director of written notice of such decree, order, or agreement, and such additional information as the Director may prescribe.

(3) As used in this subsection, the term "court" means any court of any State, the District of Columbia, the Commonwealth of Puerto

To look up a section, use this format: **28 USC Sec. #**

Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands, and any Indian tribal court or court of Indian offense.

(j)(1) Subject to paragraph (4), any judge of the Court of Federal Claims who retires under this section and who thereafter in the practice of law represents (or supervises or directs the representation of) a client in making any civil claim against the United States or any agency thereof shall forfeit all rights to an annuity under this section for all periods beginning on or after the first day on which he engages in any such activity.

(2) Subject to paragraph (4), if a judge of the Court of Federal Claims who retires under this section fails during any calendar year to perform judicial duties required of such judge by subsection (d), such judge shall forfeit all rights to an annuity under this section for the 1-year period which begins on the first day on which he or she so fails to perform such duties.

(3) If a judge of the Court of Federal Claims who retires under this section accepts compensation for civil office or employment under the Government of the United States (other than for the performance of judicial duties under subsection (d)), such judge shall forfeit all rights to an annuity under this section for the period for which such compensation is received.

(4)(A) If a judge makes an election under this paragraph -

(i) paragraphs (1) and (2) (and subsection (d)) shall not apply to such judge beginning on the date such election takes effect, and

(ii) the annuity payable under this section to such judge, for periods beginning on or after the date such election takes effect, shall be equal to the annuity to which such judge is entitled on the day before such effective date.

(B) An election under subparagraph (A) -

(i) may be made by a judge only if such judge meets the age and service requirements for retirement under subsection (a),

(ii) may be made only during the period during which such judge may make an election to receive an annuity under this section or while the judge is receiving an annuity under this section, and

(iii) shall be filed with the Director of the Administrative Office of the United States Courts.

Such an election, once it takes effect, shall be irrevocable.

(C) Any election under this paragraph shall take effect on the first day of the first month following the month in which the election is made.

(k)(1) Notwithstanding subsection (f)(1)(B), an individual who has filed an election under subsection (f) to receive an annuity

To look up a section, use this format: **28 USC Sec. #**

may revoke such election at any time before the first day on which such annuity would (but for such revocation) begin to accrue with respect to such individual.

(2) Any revocation under this subsection shall be made by filing a notice thereof in writing with the Director of (!1) Administrative Office of the United States Courts.

(3) In the case of any revocation under this subsection -

(A) for purposes of this section, the individual shall be treated as not having filed an election under subsection (f) to receive an annuity,

(B) for purposes of section 376 of this title -

(i) the individual shall be treated as not having filed an election under section 376(a)(1), and

(ii) section 376(g) shall not apply, and the amount credited to such individual's account (together with interest at 3 percent per annum, compounded on December 31 of each year to the date on which the revocation is filed) shall be returned to such individual,

(C) no credit shall be allowed for any service as a judge of the Court of Federal Claims or as a commissioner of the United States Court of Claims unless with respect to such service either there has been deducted and withheld the amount required by chapter 83 or 84 (as the case may be) of title 5 or there has been deposited in the Civil Service Retirement and Disability Fund an amount equal to the amount so required, with interest,

(D) the Court of Federal Claims shall deposit in the Civil Service Retirement and Disability Fund an amount equal to the additional amount it would have contributed to such Fund but for the election under subsection (f), and

(E) if subparagraph (D) is complied with, service on the Court of Federal Claims or as a commissioner of the United States Court of Claims shall be treated as service with respect to which deductions and contributions had been made during the period of service.

(1)(1) There is established in the Treasury a fund which shall be known as the "Court of Federal Claims Judges Retirement Fund". The Fund is appropriated for the payment of annuities and other payments under this section.

(2) The Secretary of the Treasury shall invest, in interest bearing securities of the United States, such currently available portions of the Court of Federal Claims Judges Retirement Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

To look up a section, use this format: **28 USC Sec. #**

(3)(A) There are authorized to be appropriated to the Court of Federal Claims Judges Retirement Fund amounts required to reduce to zero the unfunded liability of the Fund.

(B) For purposes of subparagraph (A), the term "unfunded liability" means the estimated excess, determined on an annual basis in accordance with the provisions of section 9503 of title 31, of the present value of all benefits payable from the Court of Federal Claims Judges Retirement Fund, over the balance in the Fund as of the date the unfunded liability is determined. In making any determination under this subparagraph, the Comptroller General shall use the applicable information contained in the reports filed pursuant to section 9503 of title 31, with respect to the retirement annuities provided for in this section.

(C) There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.

-SOURCE-

(Added Pub. L. 101-650, title III, Sec. 306(a)(1), Dec. 1, 1990, 104 Stat. 5105; amended Pub. L. 102-40, title IV, Sec. 402(d)(2), May 7, 1991, 105 Stat. 239; Pub. L. 102-198, Sec. 7(a), Dec. 9, 1991, 105 Stat. 1624; Pub. L. 102-572, title IX, Sec. 902(a), Oct. 29, 1992, 106 Stat. 4516.)

-REFTEXT-

REFERENCES IN TEXT

Section 7447 of the Internal Revenue Code of 1986, referred to in subsec. (f)(2)(C), is classified to section 7447 of Title 26, Internal Revenue Code.

-MISC1-

AMENDMENTS

1992 - Pub. L. 102-572 substituted "United States Court of Federal Claims" for "United States Claims Court" in subsec. (a) and "Court of Federal Claims" for "Claims Court" in section catchline and wherever appearing in text.

1991 - Subsec. (f)(2)(A). Pub. L. 102-198, Sec. 7(a)(1), inserted "(except for subchapters III and VII)" after "chapter 84".

Subsec. (f)(2)(D). Pub. L. 102-40 substituted "section 7296 of title 38" for "section 4096 of title 38".

Subsec. (j)(1). Pub. L. 102-198, Sec. 7(a)(2)(A), substituted "paragraph (4)" for "paragraph (2)" and "engages in any such activity" for "so practices law".

Subsec. (j)(2). Pub. L. 102-198, Sec. 7(a)(2)(B), substituted "Subject to paragraph (4), if" for "If".

Subsec. (j)(3). Pub. L. 102-198, Sec. 7(a)(2)(C), inserted "for"

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after "(other than".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

EFFECTIVE DATE

Section applicable to judges of, and senior judges in active service with, the United States Court of Federal Claims on or after Dec. 1, 1990, see section 306(f) of Pub. L. 101-650, as amended, set out as an Effective Date of 1990 Amendment note under section 8331 of Title 5, Government Organization and Employees.

-FOOTNOTE-

(!1) So in original. Probably should be "of the".

-End-

-CITE-

28 USC Sec. 179

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 7 - UNITED STATES COURT OF FEDERAL CLAIMS

-HEAD-

Sec. 179. Personnel application and insurance programs

-STATUTE-

(a) For purposes of construing and applying title 5, a judge of the United States Court of Federal Claims shall be deemed to be an "officer" under section 2104(a) of such title.

(b)(1)(A) For purposes of construing and applying chapter 89 of title 5, a judge of the United States Court of Federal Claims who -

(i) is retired under subsection (b) of section 178 of this title, and

(ii) at the time of becoming such a retired judge -

(I) was enrolled in a health benefits plan under chapter 89 of title 5, but

(II) did not satisfy the requirements of section 8905(b)(1)

To look up a section, use this format: **28 USC Sec. #**

of title 5 (relating to eligibility to continue enrollment as an annuitant),

shall be deemed to be an annuitant meeting the requirements of section 8905(b)(1) of title 5, in accordance with the succeeding provisions of this paragraph, if the judge gives timely written notification to the chief judge of the court that the judge is willing to be called upon to perform judicial duties under section 178(d) of this title during the period of continued eligibility for enrollment, as described in subparagraph (B)(ii) or (C)(ii) (whichever applies).

(B) Except as provided in subparagraph (C) -

(i) in order to be eligible for continued enrollment under this paragraph, notification under subparagraph (A) shall be made before the first day of the open enrollment period preceding the calendar year referred to in clause (ii)(II); and

(ii) if such notification is timely made, the retired judge shall be eligible for continued enrollment under this paragraph for the period -

(I) beginning on the date on which eligibility would otherwise cease, and

(II) ending on the last day of the calendar year next beginning after the end of the open enrollment period referred to in clause (i).

(C) For purposes of applying this paragraph for the first time in the case of any particular judge -

(i) subparagraph (B)(i) shall be applied by substituting "the expiration of the term of office of the judge" for the matter following "before"; and

(ii)(I) if the term of office of such judge expires before the first day of the open enrollment period referred to in subparagraph (B)(i), the period of continued eligibility for enrollment shall be as described in subparagraph (B)(ii); but

(II) if the term of office of such judge expires on or after the first day of the open enrollment period referred to in subparagraph (B)(i), the period of continued eligibility shall not end until the last day of the calendar year next beginning after the end of the next full open enrollment period beginning after the date on which the term expires.

(2) In the event that a retired judge remains enrolled under chapter 89 of title 5 for a period of 5 consecutive years by virtue of paragraph (1) (taking into account only periods of coverage as an active judge immediately before retirement and as a retired judge pursuant to paragraph (1)), then, effective as of the day

To look up a section, use this format: **28 USC Sec. #**

following the last day of that 5-year period -

(A) the provisions of chapter 89 of title 5 shall be applied as if such judge had satisfied the requirements of section 8905(b)(1) (!1) on the last day of such period; and

(B) the provisions of paragraph (1) shall cease to apply.

(3) For purposes of this subsection, the term "open enrollment period" refers to a period described in section 8905(g)(1) of title 5.

(c) For purposes of construing and applying chapter 87 of title 5, including any adjustment of insurance rates by regulation or otherwise, a judge of the United States Court of Federal Claims in regular active service or who is retired under section 178 of this title shall be deemed to be a judge of the United States described under section 8701(a)(5) of title 5.

-SOURCE-

(Added Pub. L. 106-518, title III, Sec. 309(a), Nov. 13, 2000, 114 Stat. 2419.)

-FOOTNOTE-

(!1) So in original. Probably should be followed by "of title 5".

-End-

-CITE-

28 USC Sec. 180

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 7 - UNITED STATES COURT OF FEDERAL CLAIMS

-HEAD-

[Sec. 180. Repealed. Pub. L. 106-398, Sec. 1 [[div. A], title VI, Sec. 654(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-165]

-MISC1-

Section, added Pub. L. 102-572, title IX, Sec. 903(a), Oct. 29, 1992, 106 Stat. 4517, related to military retirement pay for retired judges.

To look up a section, use this format: **28 USC Sec. #**

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1999, see section 1 [[div. A], title VI, Sec. 654(c)] of Pub. L. 106-398, set out as an Effective Date of 2000 Amendment note under section 371 of this title.

-End-

-CITE-

28 USC [CHAPTER 9 - REPEALED] 01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
[CHAPTER 9 - REPEALED]

-HEAD-

[CHAPTER 9 - REPEALED]

-End-

-CITE-

28 USC Secs. 211 to 216 01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
[CHAPTER 9 - REPEALED]

-HEAD-

[Secs. 211 to 216. Repealed. Pub. L. 97-164, title I, Sec. 106, Apr. 2, 1982, 96 Stat. 28]

-MISC1-

Section 211, acts June 25, 1948, ch. 646, 62 Stat. 899; Aug. 25, 1958, Pub. L. 85-755, Sec. 1, 72 Stat. 848, provided for creation of United States Court of Customs and Patent Appeals under article III of the United States Constitution and for appointment of a chief judge and four associate judges for that court.

Section 212, act June 25, 1948, ch. 646, 62 Stat. 899, provided for order of precedence of chief judge and associate judges of court.

Section 213, acts June 25, 1948, ch. 646, 62 Stat. 899; Mar. 2, 1955, ch. 9, Sec. 1(e), 69 Stat. 10; Aug. 14, 1964, Pub. L. 88-426,

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title IV, Sec. 403(e), 78 Stat. 434; Aug. 9, 1975, Pub. L. 94-82, title II, Sec. 205(b)(5), 89 Stat. 422, provided for tenure and salaries of judges.

Section 214, act June 25, 1948, ch. 646, 62 Stat. 899, authorized court to hold court at such times and places as it might fix by rule.

Section 215, act June 25, 1948, ch. 646, 62 Stat. 899, provided that three judges of court constituted a quorum and that concurrence of three judges was necessary to any decision.

Section 216, act June 25, 1948, ch. 646, 62 Stat. 899, provided for filing of written opinions by Court of Customs and Patent Appeals on appeals from decisions of Patent Office and recording of those opinions in Patent Office.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as an Effective Date of 1982 Amendment note under section 171 of this title.

TRANSFER OF MATTERS AND PETITIONS PENDING IN UNITED STATES COURT OF

CUSTOMS AND PATENT APPEALS ON OCTOBER 1, 1982

For provisions that any matter pending before the United States Court of Customs and Patent Appeals on Oct. 1, 1982, and that any petition for rehearing, reconsideration, alteration, modification, or other change in any decision of the United States Court of Customs and Patent Appeals rendered prior to Oct. 1, 1982, that has not been determined on that date or that is filed after that date, be determined by the United States Court of Appeals for the Federal Circuit, see section 403(b), (c) of Pub. L. 97-164, formerly set out as a note under section 171 of this title.

-End-

-CITE-

28 USC CHAPTER 11 - COURT OF INTERNATIONAL TRADE 01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 11 - COURT OF INTERNATIONAL TRADE

-HEAD-

CHAPTER 11 - COURT OF INTERNATIONAL TRADE

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- Sec.
251. Appointment and number of judges; offices.
 252. Tenure and salaries of judges.
 253. Duties of chief judge.
 254. Single-judge trials.
 255. Three-judge trials.
 256. Trials at ports other than New York.
 257. Publication of decisions.
 258. Chief judges; precedence of judges.

HISTORICAL AND REVISION NOTES

The "Board of General Appraisers" was designated "United States Customs Court" by act May 28, 1926, ch. 411, Sec. 1, 44 Stat. 669. General provisions concerning such court were incorporated in section 1518 of title 19, U.S.C., 1940 ed., Customs Duties, until amended by act October 10, 1940, ch. 843, Sec. 1, 54 Stat. 1101, adding a new section to the Judicial Code of 1911, when they were transferred to section 296 of title 28, U.S.C., 1940 ed. They are retained in title 28 by this revision.

In this connection former Congressman Walter Chandler said, "Among the major subjects needing study and revision are special courts, such as the Customs Court, which should be fitted into the judicial system." (See U.S. Law Weekly, Nov. 7, 1939.)

HISTORY OF COURT

The United States Customs Court [now Court of International Trade] as "constituted on June 17, 1930", consisted of nine members as provided by act Sept. 21, 1922, ch. 356, title IV, Sec. 518, 42 Stat. 972, which established the Board of General Appraisers, designated the "United States Customs Court" by act May 28, 1926, ch. 411, Sec. 1, 44 Stat. 669.

Provisions similar to these were contained in act Sept. 21, 1922, ch. 356, title IV, Sec. 518, 42 Stat. 972. That section was superseded by section 518 of the Tariff Act of 1930, and was repealed by section 651 (a)(1) of said 1930 act.

The sentence in the former first paragraph as to sitting in a case previously participated in, is from act Aug. 5, 1909, ch. 6, Sec. 28, 36 Stat. 98, which combined and amended Customs Administrative Act June 10, 1890, ch. 407, Sec. 12, 26 Stat. 136, and section 31, as added by act May 27, 1908, ch. 205, 35 Stat. 406. Section 12 of the act of 1890 was expressly saved from repeal by act Sept. 21, 1922, ch. 356, title IV, Sec. 643, 42 Stat. 989, and prior acts, but its provisions, other than the sentence above mentioned, were omitted from the Code.

Provisions for the review of decisions of Boards of General

To look up a section, use this format: **28 USC Sec. #**

Appraisers by the Circuit Courts, made by section 15 of the Customs Administrative Act of June 10, 1890, ch. 407, were superseded by provisions for such review by the Court of Customs Appeals created by section 29 added to that act by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6. The provisions of said new section 29 were incorporated in and superseded by chapter 8 of the Judicial Code of March 3, 1911, incorporated into the Code as former chapter 8 of Title 28, Judicial Code and Judiciary.

R.S. Sec. 2608 provided for the appointment of four appraisers of merchandise, to be employed in visiting ports of entry under the direction of the Secretary of the Treasury, and to assist in the appraisement of merchandise as might be deemed necessary by the Secretary to protect and insure uniformity in the collection of the revenue from customs. It was repealed by act June 10, 1890, ch. 407, Sec. 29, 26 Stat. 141.

R.S. Sec. 2609 provided for the appointment of merchant appraisers. R.S. Sec. 2610 made every merchant refusing to serve as such appraiser liable to a penalty. Both sections were superseded by the provisions relating to appraisers and appraisements of the Customs Administrative Act of June 10, 1890, ch. 407, 26 Stat. 131, and subsequent acts, and were repealed by act Sept. 21, 1922, ch. 356, title IV, Sec. 642, 42 Stat. 989.

R.S. Sec. 2945, which contained a provision similar to that of R.S. Sec. 2610, was repealed, without mention of section 2610, by said Customs Administrative Act of June 10, 1890, ch. 407, Sec. 29, 26 Stat. 141, and was again repealed by section 642 of act Sept. 21, 1922.

R.S. Sec. 2725, which prescribed the compensation of merchant appraisers, and section 2726, which prescribed the salary of the general appraiser at New York, were superseded by the provisions relating to general appraisers and appraisers made by the Customs Administrative Act of June 10, 1890, ch. 407, Secs. 12, 13, 26 Stat. 136, as amended by the Payne-Aldrich Act of Aug. 5, 1909, ch. 6, Sec. 28.

R.S. Sec. 2727 fixed the salary of the four general appraisers at the sum of \$2,500 a year each, and their actual traveling expenses. It was repealed by act Feb. 27, 1877, ch. 69, 19 Stat. 246.

AMENDMENTS

1996 - Pub. L. 104-317, title V, Sec. 501(b)(3), Oct. 19, 1996, 110 Stat. 3856, substituted "Duties of chief judge" for "Duties of chief judge; precedence of judges" in item 253 and added item 258.

1980 - Pub. L. 96-417, title V, Sec. 501(2), Oct. 10, 1980, 94 Stat. 1742, substituted "COURT OF INTERNATIONAL TRADE" for "CUSTOMS COURT" in chapter heading.

1970 - Pub. L. 91-271, title I, Sec. 123(a), June 2, 1970, 84

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Stat. 282, substituted "Single-judge trial" for "Divisions; powers and assignments" in item 254 and "Three-judge trials" for "Publication of decisions" in item 255 and added items 256 and 257.

-CROSS-

RULES OF THE UNITED STATES COURT OF INTERNATIONAL TRADE
See Appendix to this title.

-End-

-CITE-

28 USC Sec. 251 01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 11 - COURT OF INTERNATIONAL TRADE

-HEAD-

Sec. 251. Appointment and number of judges; offices

-STATUTE-

(a) The President shall appoint, by and with the advice and consent of the Senate, nine judges who shall constitute a court of record to be known as the United States Court of International Trade. Not more than five of such judges shall be from the same political party. The court is a court established under article III of the Constitution of the United States.

(b) The offices of the Court of International Trade shall be located in New York, New York.

-SOURCE-

(June 25, 1948, ch. 646, 62 Stat. 899; July 14, 1956, ch. 589, Sec. 1, 70 Stat. 532; Pub. L. 96-417, title I, Sec. 101, Oct. 10, 1980, 94 Stat. 1727; Pub. L. 104-317, title V, Sec. 501(b)(1), Oct. 19, 1996, 110 Stat. 3856.)

-MISC1-

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., Sec. 296 (Mar. 3, 1911, ch. 231, Sec. 187(a), as added Oct. 10, 1940, ch. 843, Sec. 1, 54 Stat. 1101).

This section contains only a part of section 296 of title 28,

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U.S.C., 1940 ed. Other provisions of such section are incorporated in sections 252, 253, 254, 455, 1581, 2071, 2639, and 2640 of this title.

The provision that vacancies should be filled by appointment of the President and confirmed by the Senate was omitted as unnecessary in view of the language of the revised section.

Words "a court of record known as" were added. (See Reviser's Note under section 171 of this title.)

The term "chief judge" was substituted for "presiding judge." (See reviser's note under section 136 of this title.)

The provisions of such section 296 of title 28, U.S.C., 1940 ed., relating to assignment and powers of retired judges were omitted as covered by sections 294 and 296 of this title.

Changes in phraseology were made.

AMENDMENTS

1996 - Subsecs. (b), (c). Pub. L. 104-317 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: "The President shall designate one of the judges of the Court of International Trade who is less than seventy years of age to serve as chief judge. The chief judge shall continue to serve as chief judge until he reaches the age of seventy years and another judge is designated as chief judge by the President. After the designation of another judge to serve as chief judge, the former chief judge may continue to serve as a judge of the court."

1980 - Subsec. (a). Pub. L. 96-417 incorporated first par. in provisions designated subsec. (a), redesignated the United States Customs Court as the United States Court of International Trade, and deleted "appointed" before "shall be".

Subsec. (b). Pub. L. 96-417 added subsec. (b) and struck out a second paragraph requiring the President to designate from time to time one of the judges to act as chief judge.

Subsec. (c). Pub. L. 96-417 designated third par. as subsec. (c) and substituted "Court of International Trade" for "court" and "located in New York, New York" for "located at the port of New York".

1956 - Act July 14, 1956, declared the Customs Court to be a court established under article III of the Constitution of the United States.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 701 of Pub. L. 96-417, as amended by Pub. L. 96-542, Sec. 1, Dec. 17, 1980, 94 Stat. 3209, provided that:

"(a) Except as otherwise provided in this section, the provisions of and amendments made by this Act [see section 1 of Pub. L. 96-417, set out as a Short Title of 1980 Amendment note under section

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1 of this title] shall take effect on November 1, 1980 and shall apply with respect to civil actions pending on or commenced on or after such date.

"(b)(1) The following sections of title 28, United States Code, shall apply with respect to civil actions commenced on or after the effective date of this Act [Nov. 1, 1980]:

"(A) Sections 1581(d), 1581(g), 1581(h), 1581(i), and 1583, as amended by section 201 of this Act.

"(B) Sections 2631(d), 2631(g), 2631(h), 2631(i), 2631(j), 2632(a), 2635, 2636, 2637(c), 2639(b), 2640(a)(5), 2640(c), 2640(d), 2643(a), 2643(c)(2), 2643(c)(4), and 2644, as amended by section 301 of this Act.

"(C) Section 1876, as added by section 302(a) of this Act.

"(D) Sections 2601 and 2602, as amended by section 403 of this Act.

"(E) Section 1919, as amended by section 510 of this Act.

"(F) Section 1963A, as added by section 511(a) of this Act.

"(2) Sections 337(c) and 641(b) of the Tariff Act of 1930 [19 U.S.C. 1337(c) and 1641(b)], as amended by sections 604 and 611 of this Act, shall apply with respect to civil actions commenced on or after the effective date of this Act.

"(3) Section 284 of the Trade Act of 1974 [19 U.S.C. 2395], as added by section 613 of this Act, shall apply with respect to civil actions commenced on or after the effective date of this Act.

"(c)(1) The following sections of title 28, United States Code, shall apply with respect to civil actions commenced on or after the 90th day after the effective date of this Act [Nov. 1, 1980]:

"(A) Sections 1582, 2639(a)(2), and 2640(a)(6), as amended by sections 201 and 301 of this Act.

"(B) Sections 1352, 1355, and 1356, as amended by sections 506, 507, and 508 of this Act.

"(2) Section 592(e) of the Tariff Act of 1930 [19 U.S.C. 1592(e)], as amended by section 609 of this Act, shall apply with respect to civil actions commenced on or after 90th day after the effective date of this Act."

[Amendment of section 701 of Pub. L. 96-417, set out above, by Pub. L. 96-542 effective as of Nov. 1, 1980, see section 3 of Pub. L. 96-542, set out as a note under section 1516a of Title 19, Customs Duties.]

REFERENCES TO CERTAIN COURTS DEEMED REFERENCES TO THE UNITED STATES

COURT OF INTERNATIONAL TRADE

Section 702 of Pub. L. 96-417 provided that: "Any reference in any statute or regulation of the United States to the United States Customs Court, the U.S. Customs Court, or the Customs Court shall

To look up a section, use this format: **28 USC Sec. #**

be deemed to be a reference to the United States Court of International Trade."

EFFECT ON CUSTOMS COURT JUDGES

Section 703 of Pub. L. 96-417 provided that:

"(a) Except as provided in subsection (b) of this section, the amendments made by title I of this Act [amending this section and section 293 of this title] shall not affect the status of any individual serving as judge or chief judge of the Customs Court on the date of enactment of this Act [Oct. 10, 1980].

"(b) The requirement that a person may not continue to serve as chief judge of the Court of International Trade after having reached the age of seventy years, as set forth in the amendment made by section 101 of this Act [amending this section], shall apply to any individual serving as chief judge on or after the date of enactment of this Act [Oct. 10, 1980]."

EFFECT ON PENDING CASES

Section 704 of Pub. L. 96-417 provided that: "Nothing in this Act [see section 1 of Pub. L. 96-417, set out as a Short Title of 1980 Amendment note under section 1 of this title] shall cause the dismissal of any action commenced prior to the date of enactment of this Act [Oct. 10, 1980] under jurisdictional statutes relating to the Customs Court or the Court of Customs and Patent Appeals as in effect immediately prior to such date of enactment [Oct. 10, 1980]."

TENNESSEE VALLEY AUTHORITY LEGAL REPRESENTATION

Section 705 of Pub. L. 96-417 provided that: "Nothing in this Act [see section 1 of Pub. L. 96-417, set out as a Short Title of 1980 Amendment note under section 1 of this title] affects the authority of the Tennessee Valley Authority under the Tennessee Valley Authority Act of 1933 [16 U.S.C. 831 et seq.] to represent itself by attorneys of its choosing."

LIMITATION OR ALTERATION OF JURISDICTION

Section 4 of act July 14, 1956, provided that: "Nothing contained in this Act [amending this section and sections 292, 293, and 295 of this title] shall be construed in any way to limit or alter the jurisdiction heretofore conferred upon the United States Customs Court [now Court of International Trade] by any provision of law."

CONTINUATION OF ORGANIZATION OF COURT

Section 2(b) of act June 25, 1948, provided in part that the provisions of this title as set out in section 1 of act June 25, 1948, with respect to the organization of the court, shall be

To look up a section, use this format: **28 USC Sec. #**

construed as continuations of existing law, and the tenure of the judges, officers, and employees, in office on Sept. 1, 1948, shall not be affected by its enactment, but each of them shall continue to serve in the same capacity under the appropriate provisions of this title, pursuant to his prior appointment.

-End-

-CITE-

28 USC Sec. 252

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 11 - COURT OF INTERNATIONAL TRADE

-HEAD-

Sec. 252. Tenure and salaries of judges

-STATUTE-

Judges of the Court of International Trade shall hold office during good behavior. Each shall receive a salary at an annual rate determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361), as adjusted by section 461 of this title.

-SOURCE-

(June 25, 1948, ch. 646, 62 Stat. 899; Mar. 2, 1955, ch. 9, Sec. 1(f), 69 Stat. 10; Pub. L. 88-426, title IV, Sec. 403(f), Aug. 14, 1964, 78 Stat. 434; Pub. L. 94-82, title II, Sec. 205(b)(6), Aug. 9, 1975, 89 Stat. 423; Pub. L. 96-417, title V, Sec. 502, Oct. 10, 1980, 94 Stat. 1742.)

-MISC1-

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., Sec. 296 (Mar. 3, 1911, ch. 231, Sec. 187(a), as added Oct. 10, 1940, ch. 843, Sec. 1, 54 Stat. 1101; July 31, 1946, ch. 704, Sec. 1, 60 Stat. 716).

This section contains a part of section 296 of title 28, U.S.C., 1940 ed., Other provisions of such section are incorporated in sections 251, 253, 254, 456, 1581, 2071, 2639, and 2640 of this title.

A provision exempting judge's salaries from section 1790 of the Revised Statutes was omitted, as such section was repealed by act

To look up a section, use this format: **28 USC Sec. #**

Aug. 26, 1935, ch. 689, Sec. 1, 49 Stat. 864.

A provision for monthly salary payments was omitted since time of payment is a matter for administrative determination.

Changes were made in phraseology.

-REFTEXT-

REFERENCES IN TEXT

Section 225 of the Federal Salary Act of 1967, referred to in text, is section 225 of Pub. L. 90-206, Dec. 16, 1967, 81 Stat. 642, as amended, which is classified to chapter 11 (Sec. 351 et seq.) of Title 2, The Congress.

-MISC2-

AMENDMENTS

1980 - Pub. L. 96-417 substituted "Judges of the Court of International Trade" for "Judge of the Customs Court".

1975 - Pub. L. 94-82 substituted provision that each judge shall receive a salary at an annual rate determined under section 225 of the Federal Salary Act of 1967, as adjusted by section 461 of this title, for provision that each judge shall receive a salary of \$30,000 a year.

1964 - Pub. L. 88-426 increased salaries of judges from \$22,500 to \$30,000 a year.

1955 - Act Mar. 2, 1955, increased salaries of judges from \$15,000 to \$22,500 a year.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96-417, set out as a note under section 251 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-426 effective on first day of first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88-426, see section 501 of Pub. L. 88-426.

EFFECTIVE DATE OF 1955 AMENDMENT

Amendment by act Mar. 2, 1955, effective Mar. 1, 1955, see section 5 of act Mar. 2, 1955, set out as a note under section 31 of Title 2, The Congress.

SALARY INCREASES

2005 - Salaries of judges increased to \$162,100 per annum,

To look up a section, use this format: **28 USC Sec. #**

effective on first day of first pay period beginning on or after Jan. 1, 2005, by Ex. Ord. No. 13368, Dec. 30, 2004, 70 F.R. 1147, set out as a note under section 5332 of Title 5, Government Organization and Employees.

2004 - Salaries of judges increased to \$158,100 per annum, effective on first day of first pay period beginning on or after Jan. 1, 2004, by Ex. Ord. No. 13332, Mar. 3, 2004, 69 F.R. 10891, formerly set out as a note under section 5332 of Title 5.

Salaries of judges increased to \$157,000 per annum, effective on first day of first pay period beginning on or after Jan. 1, 2004, by Ex. Ord. No. 13322, Dec. 30, 2003, 69 F.R. 231.

2003 - Salaries of judges increased to \$154,700 per annum, effective on first day of first pay period beginning on or after Jan. 1, 2003, by Ex. Ord. No. 13282, Dec. 31, 2002, 68 F.R. 1133, as amended by Ex. Ord. No. 13291, Sec. 3, Mar. 21, 2003, 68 F.R. 14525, formerly set out as a note under section 5332 of Title 5.

2002 - Salaries of judges increased to \$150,000 per annum, effective on first day of first pay period beginning on or after Jan. 1, 2002, by Ex. Ord. No. 13249, Dec. 28, 2001, 67 F.R. 639, formerly set out as a note under section 5332 of Title 5.

2001 - Salaries of judges increased to \$145,100 per annum, effective on first day of first pay period beginning on or after Jan. 1, 2001, by Ex. Ord. No. 13182, Dec. 23, 2000, 65 F.R. 82879, 66 F.R. 10057, formerly set out as a note under section 5332 of Title 5.

2000 - Salaries of judges increased to \$141,300 per annum, effective on first day of first pay period beginning on or after Jan. 1, 2000, by Ex. Ord. No. 13144, Dec. 21, 1999, 64 F.R. 72237, formerly set out as a note under section 5332 of Title 5.

1999 - Salaries of judges continued at \$136,700 per annum, by Ex. Ord. No. 13106, Dec. 7, 1998, 63 F.R. 68151, formerly set out as a note under section 5332 of Title 5.

1998 - Salaries of judges increased to \$136,700 per annum, effective on first day of first pay period beginning on or after Jan. 1, 1998, by Ex. Ord. No. 13071, Dec. 29, 1997, 62 F.R. 68521, formerly set out as a note under section 5332 of Title 5.

1997 - Salaries of judges continued at \$133,600 per annum, by Ex. Ord. No. 13033, Dec. 27, 1996, 61 F.R. 68987, formerly set out as a note under section 5332 of Title 5.

1996 - Salaries of judges continued at \$133,600 per annum, by Ex. Ord. No. 12984, Dec. 28, 1995, 61 F.R. 237, formerly set out as a note under section 5332 of Title 5.

1995 - Salaries of judges continued at \$133,600 per annum, by Ex. Ord. No. 12944, Dec. 28, 1994, 60 F.R. 309, formerly set out as a note under section 5332 of Title 5.

1993 - Salaries of judges increased to \$133,600 per annum,

To look up a section, use this format: **28 USC Sec. #**

effective on first day of first pay period beginning on or after Jan. 1, 1993, by Ex. Ord. No. 12826, Dec. 30, 1992, 57 F.R. 62909, formerly set out as a note under section 5332 of Title 5.

1992 - Salaries of judges increased to \$129,500 per annum, effective on first day of first pay period beginning on or after Jan. 1, 1992, by Ex. Ord. No. 12786, Dec. 26, 1991, 56 F.R. 67453, formerly set out as a note under section 5332 of Title 5.

1991 - Salaries of judges increased to \$125,100 per annum, effective on first day of first pay period beginning on or after Jan. 1, 1991, by Ex. Ord. No. 12736, Dec. 12, 1990, 55 F.R. 51385, formerly set out as a note under section 5332 of Title 5.

1990 - Salaries of judges continued at \$89,500 per annum, and increased to \$96,600, effective on first day of first pay period beginning on or after Jan. 31, 1990, by Ex. Ord. No. 12698, Dec. 23, 1989, 54 F.R. 53473, formerly set out as a note under section 5332 of Title 5.

1989 - Salaries of judges increased in the amount of 25 percent of their rates (as last in effect before the increase), effective Jan. 1, 1991, see Pub. L. 101-194, title VII, Sec. 703(a)(3), Nov. 30, 1989, 103 Stat. 1768, set out as a note under section 5318 of Title 5.

Salaries of judges continued at \$89,500 per annum by Ex. Ord. No. 12663, Jan. 6, 1989, 54 F.R. 791, formerly set out as a note under section 5332 of Title 5.

1988 - Salaries of judges continued at \$89,500 per annum by Ex. Ord. No. 12622, Dec. 31, 1987, 53 F.R. 222, formerly set out as a note under section 5332 of Title 5.

1987 - Salaries of judges increased to \$89,500 per annum, on recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

Salaries of judges increased to \$81,100 effective on first day of first pay period beginning on or after Jan. 1, 1987, by Ex. Ord. No. 12578, Dec. 31, 1986, 52 F.R. 505, formerly set out as a note under section 5332 of Title 5, Government Organization and Employees.

1985 - Salaries of judges increased to \$78,700 effective on first day of first pay period beginning on or after Jan. 1, 1985, by Ex. Ord. No. 12496, Dec. 28, 1984, 50 F.R. 211, as amended by Ex. Ord. No. 12540, Dec. 30, 1985, 51 F.R. 577, formerly set out as a note under section 5332 of Title 5.

1984 - Salaries of judges increased to \$76,000 effective on first day of first pay period beginning on or after Jan. 1, 1984, by Ex. Ord. No. 12456, Dec. 30, 1983, 49 F.R. 347, as amended Ex. Ord. No. 12477, May 23, 1984, 49 F.R. 22041; Ex. Ord. No. 12487, Sept. 14, 1984, 49 F.R. 36493, formerly set out as a note under section 5332 of Title 5.

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1982 - Salaries of judges increased to \$73,100 effective on first day of first pay period beginning on or after Oct. 1, 1982, by Ex. Ord. No. 12387, Oct. 8, 1982, 47 F.R. 44981, formerly set out as a note under section 5332 of Title 5. Ex. Ord. No. 12387 further provided that pursuant to section 140 of Pub. L. 97-92 funds are not available to pay a salary at a rate which exceeds rate in effect on Dec. 15, 1981, which was \$70,300.

Maximum rate payable after Dec. 17, 1982, increased from \$70,300 to \$73,100, see Pub. L. 97-377, title I, Sec. 129(b)-(d), Dec. 21, 1982, 96 Stat. 1914, set out as a note under section 5318 of Title 5.

Limitations on use of funds for fiscal year ending Sept. 30, 1983, appropriated by any Act to pay salary or pay of any individual in legislative, executive, or judicial branch in position equal to or above level V of Executive Schedule, see section 101(e) of Pub. L. 97-276, as amended, set out as a note under section 5318 of Title 5.

1981 - Salaries of judges increased to \$70,300 effective on first day of first pay period beginning on or after Oct. 1, 1981, by Ex. Ord. No. 12330, Oct. 15, 1981, 46 F.R. 50921, formerly set out as a note under section 5332 of Title 5.

Limitations on use of funds for fiscal year ending Sept. 30, 1982, appropriated by any Act to pay salary or pay of any individual in legislative, executive, or judicial branch in position equal to or above level V of Executive Schedule, see sections 101(g) and 141 of Pub. L. 97-92, set out as a note under section 5318 of Title 5.

1980 - Salaries of judges increased to \$67,100 effective on first day of first pay period beginning on or after Oct. 1, 1980, by Ex. Ord. No. 12248, Oct. 16, 1980, 45 F.R. 69199, formerly set out as a note under section 5332 of Title 5. Ex. Ord. No. 12248 further provided that pursuant to Pub. L. 96-369 funds are not available to pay a salary at a rate which exceeds rate in effect on Sept. 30, 1980, which was \$57,497.50.

Limitations on use of funds for fiscal year ending Sept. 30, 1981, appropriated by any Act to pay salary or pay of any individual in legislative, executive, or judicial branch in position equal to or above level V of Executive Schedule, see section 101(c) of Pub. L. 96-536, as amended, set out as a note under section 5318 of Title 5.

1979 - Salaries of judges increased to \$61,500 effective on first day of first pay period beginning on or after Oct. 1, 1979, by Ex. Ord. No. 12165, Oct. 9, 1979, 44 F.R. 58671, as amended by Ex. Ord. No. 12200, Mar. 12, 1980, 45 F.R. 16443, formerly set out as a note under section 5332 of Title 5. Ex. Ord. No. 12165 further provided that pursuant to Pub. L. 96-86 funds appropriated for fiscal year

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1980 may not be used to pay a salary at a rate which exceeds an increase of 5.5 percent over applicable rate payable for such position or office in effect on Sept. 30, 1978, which was \$57,497.50.

Applicability to funds appropriated by any Act for fiscal year ending Sept. 30, 1980, of limitation of section 304 of Pub. L. 95-391 on use of funds to pay salary or pay of any individual in legislative, executive, or judicial branch in position equal to or above Level V of Executive Schedule, see section 101 of Pub. L. 96-86, set out as a note under section 5318 of Title 5.

1978 - Salaries of judges increased to \$57,500 effective on first day of first pay period beginning on or after Oct. 1, 1978, by Ex. Ord. No. 12087, Oct. 7, 1978, 43 F.R. 46823, formerly set out as a note under section 5332 of Title 5. Ex. Ord. No. 12087, further provided that pursuant to the Legislative Branch Appropriation Act, 1979 [Pub. L. 95-391, title III, Sec. 304, Sept. 30, 1978, 92 Stat. 788, set out as a note under section 5318 of Title 5], funds are not available to pay a salary at a rate which exceeds rate in effect on Sept. 30, 1978, which was \$54,500.

1977 - Salaries of judges increased to \$54,500 per annum, on recommendation of President of United States, see note set out under section 358 of Title 2, The Congress.

1976 - Salaries of judges increased to \$44,000 effective on first day of first pay period beginning on or after Oct. 1, 1976, see Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43889, formerly set out as a note under section 5332 of Title 5, Government Organization and Employees. Ex. Ord. No. 11941, further provided that pursuant to Legislative Branch Appropriation Act, 1977, funds are not available to pay a salary at a rate which exceeds rate in effect on Sept. 30, 1976, which was \$42,000.

1969 - Salaries of judges increased from \$30,000 to \$40,000 per annum, commencing Feb. 14, 1969, on recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

1946 - Salaries of presiding judge and associate judges increased from \$10,000 to \$15,000 a year by act July 31, 1946, ch. 704, Sec. 1, 60 Stat. 716.

1930 - Salaries of presiding judge and associate judges increased from \$9,000 to \$10,000 a year by the Tariff Act of 1930, act June 17, 1930, ch. 497, title IV, Sec. 518, 46 Stat. 737.

-End-

-CITE-

To look up a section, use this format: **28 USC Sec. #**

28 USC Sec. 253

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 11 - COURT OF INTERNATIONAL TRADE

-HEAD-

Sec. 253. Duties of chief judge

-STATUTE-

(a) The chief judge of the Court of International Trade, with the approval of the court, shall supervise the fiscal affairs and clerical force of the court; (!1)

(b) The chief judge shall promulgate dockets.

(c) The chief judge, under rules of the court, may designate any judge or judges of the court to try any case and, when the circumstances so warrant, reassign the case to another judge or judges.

-SOURCE-

(June 25, 1948, ch. 646, 62 Stat. 900; Pub. L. 86-243, Sec. 3, Sept. 9, 1959, 73 Stat. 474; Pub. L. 91-271, title I, Sec. 105, June 2, 1970, 84 Stat. 276; Pub. L. 96-417, title V, Sec. 501(3), Oct. 10, 1980, 94 Stat. 1742; Pub. L. 104-317, title V, Sec. 501(b)(2), Oct. 19, 1996, 110 Stat. 3856.)

-MISC1-

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., Sec. 296 (Mar. 3, 1911, ch. 231, Sec. 187(a), as added Oct. 10, 1940, ch. 843, Sec. 1, 54 Stat. 1101).

This section contains a part of section 296 of title 28, U.S.C., 1940 ed. Other provisions of such section are incorporated in sections 251, 252, 254, 456, 1581, 2071, 2639, and 2640 of this title.

Provision respecting recommendations for appointment, promotions, or otherwise affecting such clerical force, was omitted as unnecessary in view of section 871 of this title.

The second paragraph is partly new and conforms with similar provisions of section 136(e) of this title, relating to the chief judges of district courts.

The term "chief judge" was substituted for "presiding judge."
(See Reviser's Note under section 136 of this title.)

To look up a section, use this format: **28 USC Sec. #**

Changes were made in phraseology and arrangement.

AMENDMENTS

1996 - Pub. L. 104-317 struck out "; precedence of judges" after "chief judge" in section catchline and struck out subsecs. (d) and (e) which read as follows:

"(d) Whenever the chief judge is unable to perform the duties of his office or the office is vacant, his powers and duties shall devolve upon the judge next in precedence who is able to act, until such disability is removed or another chief judge is appointed and duly qualified.

"(e) The chief judge shall have precedence and shall preside at any session which he attends. Other judges shall have precedence and shall preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age."

1980 - Subsec. (a). Pub. L. 96-417 redesignated the Customs Court as the Court of International Trade.

1970 - Pub. L. 91-271 reorganized existing provisions into lettered subsecs. (a) to (e) and made minor changes in phraseology.

1959 - Pub. L. 86-243 required the chief judge to supervise the fiscal affairs and clerical force of the court, with the approval of the court.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96-417, set out as a note under section 251 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-271 effective Oct. 1, 1970, see section 122 of Pub. L. 91-271, set out as a note under section 256 of this title.

SAVINGS PROVISION

Amendment by Pub. L. 86-243 not to deprive Customs Court [now Court of International Trade] officers or employees of any rights, privileges, or civil service status, see section 4 of Pub. L. 86-243, set out as a note under section 871 of this title.

-FOOTNOTE-

(1) So in original. The semicolon probably should be a period.

-End-

To look up a section, use this format: **28 USC Sec. #**

-CITE-

28 USC Sec. 254

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 11 - COURT OF INTERNATIONAL TRADE

-HEAD-

Sec. 254. Single-judge trials

-STATUTE-

Except as otherwise provided in section 255 of this title, the judicial power of the Court of International Trade with respect to any action, suit or proceeding shall be exercised by a single judge, who may preside alone and hold a regular or special session of court at the same time other sessions are held by other judges.

-SOURCE-

(June 25, 1948, ch. 646, 62 Stat. 900; May 24, 1949, ch. 139, Sec. 66, 63 Stat. 99; Pub. L. 91-271, title I, Sec. 106, June 2, 1970, 84 Stat. 277; Pub. L. 96-417, title V, Sec. 501(4), Oct. 10, 1980, 94 Stat. 1742.)

-MISC1-

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 28, U.S.C., 1940 ed., Sec. 296 (Mar. 3, 1911, ch. 231, 187(a), as added Oct. 10, 1940, ch. 843, Sec. 1, 54 Stat. 1101).

This section contains a part of section 296 of title 28, U.S.C., 1940 ed. Other provisions of such section are incorporated in sections 251, 252, 253, 456, 1581, 2071, 2639, and 2640 of this title.

Words "when in the opinion of such division or judge the ends of justice so require," which followed the phrase "grant a rehearing or retrial," were omitted as surplusage.

The term "chief judge" was substituted for "presiding judge." (See reviser's note under section 136 of this title.)

The phrase "petitions for remission of additional duties" was added to the first paragraph at the suggestion of the court to

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conform to existing practice.

Reappraisal appeals are heard by a single judge and reviewed by a division. (See sections 2631 and 2636 of this title.)

The provision of section 296 of title 28, U.S.C., 1940 ed., that the presiding judge shall designate one of the three judges of a division to preside over such division was omitted as in conflict with section 253 of this title (also taken from section 296 of title 28 U.S.C., 1940 ed.), which provides that judges shall preside according to the seniority of their commissions. The latter provision is in accord with present practice.

Changes were made in arrangement and phraseology.

1949 ACT

This amendment clarifies section 254 of title 28, U.S.C., by restoring language of the original law.

PRIOR PROVISIONS

Provisions similar to those relating to the assignment of judges to hear and determine cases, and provisions similar to those authorizing the chief judge to designate judges to hear and determine cases within the jurisdiction of the United States, formerly contained in this section, are covered by sections 255 and 256 of this title, respectively.

AMENDMENTS

1980 - Pub. L. 96-417 redesignated the Customs Court as the Court of International Trade.

1970 - Pub. L. 91-271 substituted in section catchline "Single-judge trials" for "Divisions; powers and assignments" and substituted provisions in text requiring the judicial power of the Customs Court with respect to any action, suit, or proceeding to be exercised by a single judge, for provisions setting forth the powers of the chief judge of the Customs Court with respect to the organization of such Court into divisions, and the assignment of judges to hear and determine pending cases.

1949 - Act May 24, 1949, inserted "to hear or" before "to hear and determine" in third par.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96-417, set out as a note under section 251 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-271 effective Oct. 1, 1970, see section

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122 of Pub. L. 91-271, set out as a note under section 256 of this title.

-End-

-CITE-

28 USC Sec. 255

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 11 - COURT OF INTERNATIONAL TRADE

-HEAD-

Sec. 255. Three-judge trials

-STATUTE-

(a) Upon application of any party to a civil action, or upon his own initiative, the chief judge of the Court of International Trade shall designate any three judges of the court to hear and determine any civil action which the chief judge finds: (1) raises an issue of the constitutionality of an Act of Congress, a proclamation of the President or an Executive order; or (2) has broad or significant implications in the administration or interpretation of the customs laws.

(b) A majority of the three judges designated may hear and determine the civil action and all questions pending therein.

-SOURCE-

(Added Pub. L. 91-271, title I, Sec. 108, June 2, 1970, 84 Stat. 277; amended Pub. L. 96-417, title V, Sec. 501(5), Oct. 10, 1980, 94 Stat. 1742.)

-MISC1-

PRIOR PROVISIONS

A prior section 255 was renumbered section 257 of this title.

AMENDMENTS

1980 - Subsec. (a). Pub. L. 96-417 redesignated the Customs Court as the Court of International Trade.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, and

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applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96-417, set out as a note under section 251 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1970, see section 122 of Pub. L. 91-271, set out as a note under section 256 of this title.

-End-

-CITE-

28 USC Sec. 256

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 11 - COURT OF INTERNATIONAL TRADE

-HEAD-

Sec. 256. Trials at ports other than New York

-STATUTE-

(a) The chief judge may designate any judge or judges of the court to proceed, together with necessary assistants, to any port or to any place within the jurisdiction of the United States to preside at a trial or hearing at the port or place.

(b) Upon application of a party or upon his own initiative, and upon a showing that the interests of economy, efficiency, and justice will be served, the chief judge may issue an order authorizing a judge of the court to preside in an evidentiary hearing in a foreign country whose laws do not prohibit such a hearing: Provided, however, That an interlocutory appeal may be taken from such an order pursuant to the provisions of section 1292(d)(1) of this title, and the United States Court of Appeals for the Federal Circuit may, in its discretion, consider the appeal.

-SOURCE-

(Added Pub. L. 91-271, title I, Sec. 109, June 2, 1970, 84 Stat. 277; amended Pub. L. 97-164, title I, Sec. 107, Apr. 2, 1982, 96 Stat. 28.)

-MISC1-

To look up a section, use this format: **28 USC Sec. #**

AMENDMENTS

1982 - Subsec. (b). Pub. L. 97-164 substituted "section 1292(d)(1) of this title, and the United States Court of Appeals for the Federal Circuit may, in its discretion, consider the appeal" for "section 1541(b) of this title, subject to the discretion of the Court of Customs and Patent Appeals as set forth in that section".

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

EFFECTIVE DATE

Section 122 of title I of Pub. L. 91-271 provided that:

"(a) This title [see Short Title of 1970 Amendment note set out under section 1 of this title] shall become effective on October 1, 1970, and shall thereafter apply to all actions and proceedings in the Customs Court and the Court of Customs and Patent Appeals except those involving merchandise entered before the effective date for which trial has commenced by such effective date.

"(b) An appeal for reappraisal timely filed with the Bureau of Customs before the effective date, but as to which trial has not commenced by such date, shall be deemed to have had a summons timely and properly filed under this title. When the judgment or order of the United States Customs Court has become final in this appeal, the papers shall be returned to the appropriate customs officer to decide any remaining matters relating to the entry in accordance with section 500 of the Tariff Act of 1930, as amended [section 1500 of Title 19, Customs Duties]. A protest or summons filed after final decision on an appeal for reappraisal shall not include issues which were raised or could have been raised on the appeal for reappraisal.

"(c) A protest timely filed with the Bureau of Customs before the effective date of enactment of this Act [June 2, 1970], which is disallowed before that date, and as to which trial has not commenced by such date, shall be deemed to have had a summons timely and properly filed under this title.

"(d) All other provisions of this Act [see Short Title notes set out under section 1 of this title and section 1500 of Title 19] shall apply to appeals and disallowed protests deemed to have had summonses timely and properly filed under this section."

-End-

To look up a section, use this format: **28 USC Sec. #**

-CITE-

28 USC Sec. 257

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 11 - COURT OF INTERNATIONAL TRADE

-HEAD-

Sec. 257. Publication of decisions

-STATUTE-

All decisions of the Court of International Trade shall be preserved and open to inspection. The court shall forward copies of each decision to the Secretary of the Treasury or his designee and to the appropriate customs officer for the district in which the case arose. The Secretary shall publish weekly such decisions as he or the court may designate and abstracts of all other decisions.

-SOURCE-

(June 25, 1948, ch. 646, 62 Stat. 900, Sec. 255; renumbered Sec. 257 and amended Pub. L. 91-271, title I, Sec. 107, June 2, 1970, 84 Stat. 277; Pub. L. 96-417, title V, Sec. 501(6), Oct. 10, 1980, 94 Stat. 1742.)

-MISC1-

HISTORICAL AND REVISION NOTES

Based on section 1519 of title 19, U.S.C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, Sec. 519, 46 Stat. 739). Changes in phraseology were made.

AMENDMENTS

1980 - Pub. L. 96-417 redesignated the Customs Court as the Court of International Trade.

1970 - Pub. L. 91-271 inserted "or his designee" after "Secretary of the Treasury," and substituted "to the appropriate customs officer" for "the collector".

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96-417, set out as a note under section 251 of this title.

To look up a section, use this format: **28 USC Sec. #**

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-271 effective Oct. 1, 1970, see section 122 of Pub. L. 91-271, set out as an Effective Date note under section 256 of this title.

-End-

-CITE-

28 USC Sec. 258

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 11 - COURT OF INTERNATIONAL TRADE

-HEAD-

Sec. 258. Chief judges; precedence of judges

-STATUTE-

(a)(1) The chief judge of the Court of International Trade shall be the judge of the court in regular active service who is senior in commission of those judges who -

- (A) are 64 years of age or under;
- (B) have served for 1 year or more as a judge of the court; and
- (C) have not served previously as chief judge.

(2)(A) In any case in which no judge of the court meets the qualifications under paragraph (1), the youngest judge in regular active service who is 65 years of age or over and who has served as a judge of the court for 1 year or more shall act as the chief judge.

(B) In any case under subparagraph (A) in which there is no judge of the court in regular active service who has served as a judge of the court for 1 year or more, the judge of the court in regular active service who is senior in commission and who has not served previously as chief judge shall act as the chief judge.

(3)(A) Except as provided under subparagraph (C), the chief judge serving under paragraph (1) shall serve for a term of 7 years and shall serve after expiration of such term until another judge is eligible under paragraph (1) to serve as chief judge.

(B) Except as provided under subparagraph (C), a judge of the court acting as chief judge under subparagraph (A) or (B) of paragraph (2) shall serve until a judge meets the qualifications under paragraph (1).

To look up a section, use this format: **28 USC Sec. #**

(C) No judge of the court may serve or act as chief judge of the court after attaining the age of 70 years unless no other judge is qualified to serve as chief judge under paragraph (1) or is qualified to act as chief judge under paragraph (2).

(b) The chief judge shall have precedence and preside at any session of the court which such judge attends. Other judges of the court shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

(c) If the chief judge desires to be relieved of the duties as chief judge while retaining active status as a judge of the court, the chief judge may so certify to the Chief Justice of the United States, and thereafter the chief judge of the court shall be such other judge of the court who is qualified to serve or act as chief judge under subsection (a).

(d) If a chief judge is temporarily unable to perform the duties as such, such duties shall be performed by the judge of the court in active service, able and qualified to act, who is next in precedence.

-SOURCE-

(Added Pub. L. 104-317, title V, Sec. 501(a), Oct. 19, 1996, 110 Stat. 3855.)

-MISC1-

CONTINUANCE OF POSITION OF CHIEF JUDGE

Section 501(c) of Pub. L. 104-317 provided that:

"(1) Notwithstanding the provisions of section 258(a) of title 28, United States Code (as added by subsection (a) of this section), the chief judge of the United States Court of International Trade who is in office on the day before the date of enactment of this Act [Oct. 19, 1996] shall continue to be such chief judge on or after such date until any one of the following events occurs:

"(A) The chief judge is relieved of his duties under section 258(c) of title 28, United States Code.

"(B) The regular active status of the chief judge is terminated.

"(C) The chief judge attains the age of 70 years.

"(D) The chief judge has served for a term of 7 years as chief judge.

"(2) When the chief judge vacates the position of chief judge under paragraph (1), the position of chief judge of the Court of International Trade shall be filled in accordance with section 258(a) of title 28, United States Code."

To look up a section, use this format: **28 USC Sec. #**

-End-

-CITE-

28 USC CHAPTER 13 - ASSIGNMENT OF JUDGES TO OTHER COURTS 01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 13 - ASSIGNMENT OF JUDGES TO OTHER COURTS

-HEAD-

CHAPTER 13 - ASSIGNMENT OF JUDGES TO OTHER COURTS

-MISC1-

- Sec.
- 291. Circuit judges.
 - 292. District judges.
 - 293. Judges of the Court of International Trade.
 - 294. Assignment of retired justices or judges to active duty.(!1)
 - 295. Conditions upon designation and assignment.
 - 296. Powers upon designation and assignment.
 - 297. Assignment of judges to courts of the freely associated compact states.

AMENDMENTS

1988 - Pub. L. 100-702, title X, Sec. 1022(2), Nov. 19, 1988, 102 Stat. 4673, added item 297.

1982 - Pub. L. 97-164, title I, Sec. 110(c), Apr. 2, 1982, 96 Stat. 29, substituted "the Court of International Trade" for "other courts" in item 293.

1958 - Pub. L. 85-755, Sec. 8, Aug. 25, 1958, 72 Stat. 850, substituted "Judges of other courts" for "Circuit or district judges to Court of Customs and Patent Appeals" in item 293.

-FOOTNOTE-

(!1) Section catchline amended by Pub. L. 85-755 without corresponding amendment of analysis.

-End-

To look up a section, use this format: **28 USC Sec. #**

-CITE-

28 USC Sec. 291

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 13 - ASSIGNMENT OF JUDGES TO OTHER COURTS

-HEAD-

Sec. 291. Circuit judges

-STATUTE-

(a) The Chief Justice of the United States may, in the public interest, designate and assign temporarily any circuit judge to act as circuit judge in another circuit upon request by the chief judge or circuit justice of such circuit.

(b) The chief judge of a circuit or the circuit justice may, in the public interest, designate and assign temporarily any circuit judge within the circuit, including a judge designated and assigned to temporary duty therein, to hold a district court in any district within the circuit.

-SOURCE-

(June 25, 1948, ch. 646, 62 Stat. 900; July 28, 1953, ch. 253, Sec. 2, 67 Stat. 226; Sept. 3, 1954, ch. 1263, Sec. 39(b), 68 Stat. 1240; July 9, 1956, ch. 517, Sec. 1(a), 70 Stat. 497; Pub. L. 85-755, Sec. 2, Aug. 25, 1958, 72 Stat. 848; Pub. L. 95-598, title II, Sec. 202, Nov. 6, 1978, 92 Stat. 2660; Pub. L. 97-164, title I, Sec. 108, Apr. 2, 1982, 96 Stat. 28; Pub. L. 102-572, title I, Sec. 104, Oct. 29, 1992, 106 Stat. 4507.)

-MISC1-

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., Secs. 17, 22 (Mar. 3, 1911, ch. 231, Secs. 13, 18, 36 Stat. 1089; Oct. 3, 1913, ch. 18, 38 Stat. 203; Sept. 14, 1922, ch. 306, Secs. 3, 5, 42 Stat. 839; Mar. 2, 1929, ch. 488, Sec. 1, 45 Stat. 1475; June 7, 1934, ch. 426, 48 Stat. 926; June 25, 1936, ch. 804, 49 Stat. 1921; Aug. 24, 1937, ch. 754, Sec. 4, 50 Stat. 753; Dec. 29, 1942, ch. 835, Sec. 1, 56 Stat. 1094).

Section consolidates all provisions of sections 17 and 22 of title 28, U.S.C., 1940 ed., relating to designation and assignment of circuit judges.

The revised section omits a reference to the Chief Justice contained in said section 22, since in exercising the powers under

To look up a section, use this format: **28 USC Sec. #**

subsection (b), he acts as a circuit justice.

Paragraph (d) of said section 17, making the section applicable to the United States Court of Appeals for the District of Columbia, is omitted since such court is included in this revision because the District of Columbia is made a separate circuit. (See section 41 of this title.)

Provisions of said sections 17 and 22 authorizing the senior Associate Justice to act in the absence of the Chief Justice of the United States were omitted as surplusage in view of specific authority to so act in section 3 of this title.

The words in said section 17 "for such time as the business of such district court may require," were omitted as inconsistent with the language of said section 22 of title 28, U.S.C., 1940 ed., which employed the words "the public interest requires" and "from time to time and until he shall otherwise direct." The revised section and sections 294 and 296 of this title make clear the power to make designation and assignment without any limitation of time, to revoke such designation and assignment and to make, from time to time, new designations and assignments.

The term "chief judge" of the circuit was substituted for "senior circuit judge." (See reviser's note under section 136 of this title.)

References in said sections 17 and 22 to retired judges were omitted as covered by section 294 of this title.

Other provisions of said section 17 of title 28, U.S.C., 1940 ed., are incorporated in sections 292, 295 and 296 of this title.

Other provisions of said section 22 of title 28, U.S.C., 1940 ed., are incorporated in section 296 of this title.

Changes were made in phraseology and arrangement.

AMENDMENTS

1992 - Subsec. (a). Pub. L. 102-572 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "The Chief Justice of the United States may designate and assign temporarily any circuit judge to act as circuit judge in another circuit upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit where the need arises."

1982 - Subsecs. (b), (c). Pub. L. 97-164 redesignated subsec. (c) as (b). Former subsec. (b), which authorized the Chief Justice of the United States to designate and temporarily assign any circuit judge to serve as a judge of the Court of Claims or the Court of Customs and Patent Appeals upon presentation to him of a certificate of necessity by the chief judge of the court in which the need arose, was struck out.

1978 - Subsec. (c). Pub. L. 95-598 directed the amendment of

To look up a section, use this format: **28 USC Sec. #**

subsec. (c) by inserting "or bankruptcy" after "to hold a district", which amendment did not become effective pursuant to section 402(b) of Pub. L. 95-598, as amended, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

1958 - Subsec. (a). Pub. L. 85-755 struck out provision for assignment of any judge of the Court of Claims to serve as circuit judge in any circuit. See section 293(a) of this title.

Subsec. (b). Pub. L. 85-755 redesignated subsec. (c) as (b) and incorporated in it provision for assignment of circuit judges to Court of Customs and Patent Appeals formerly contained in section 293 of this title. Former subsec. (b), which provided for assignment of judges of the Court of Customs and Patent Appeals to serve as judges of the Court of Appeals or the District Court for the District of Columbia, was struck out. See section 293(a) of this title.

Subsecs. (c), (d). Pub. L. 85-755 redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

1956 - Subsec. (a). Act July 9, 1956, inserted "or any judge of the Court of Claims to serve as a circuit judge in any circuit".

1954 - Subsec. (c). Act Sept. 3, 1954, struck out "United States" from name of Court of Claims.

1953 - Subsecs. (c), (d). Act July 28, 1953, added subsec. (c) and redesignated former subsec. (c) as (d).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Jan. 1, 1993, see section 1101(a) of Pub. L. 102-572, set out as a note under section 905 of Title 2, The Congress.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

JURISDICTION OF UNITED STATES COURT OF CUSTOMS AND PATENT APPEALS

Section 7 of Pub. L. 85-755 provided that: "Nothing contained in this Act [amending this section and sections 211 and 292 to 295 of this title] shall be construed in any way to limit or alter the jurisdiction heretofore conferred upon the United States Court of Customs and Patent Appeals [now United States Court of Appeals for the Federal Circuit] by any provision of law."

-End-

To look up a section, use this format: **28 USC Sec. #**

-CITE-

28 USC Sec. 292

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 13 - ASSIGNMENT OF JUDGES TO OTHER COURTS

-HEAD-

Sec. 292. District judges

-STATUTE-

(a) The chief judge of a circuit may designate and assign one or more district judges within the circuit to sit upon the court of appeals or a division thereof whenever the business of that court so requires. Such designations or assignments shall be in conformity with the rules or orders of the court of appeals of the circuit.

(b) The chief judge of a circuit may, in the public interest, designate and assign temporarily any district judge of the circuit to hold a district court in any district within the circuit.

(c) The chief judge of the United States Court of Appeals for the District of Columbia Circuit may, upon presentation of a certificate of necessity by the chief judge of the Superior Court of the District of Columbia pursuant to section 11-908(c) of the District of Columbia Code, designate and assign temporarily any district judge of the circuit to serve as a judge of such Superior Court, if such assignment (1) is approved by the Attorney General of the United States following a determination by him to the effect that such assignment is necessary to meet the ends of justice, and (2) is approved by the chief judge of the United States District Court for the District of Columbia.

(d) The Chief Justice of the United States may designate and assign temporarily a district judge of one circuit for service in another circuit, either in a district court or court of appeals, upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises.

(e) The Chief Justice of the United States may designate and assign temporarily any district judge to serve as a judge of the Court of International Trade upon presentation to him of a certificate of necessity by the chief judge of the court.

-SOURCE-

(June 25, 1948, ch. 646, 62 Stat. 901; July 28, 1953, ch. 253, Sec. 3, 67 Stat. 226; Sept. 3, 1954, ch. 1263, Sec. 39(c), 68 Stat. 1240; July 9, 1956, ch. 517, Sec. 1(b), 70 Stat. 497; July 14,

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1956, ch. 589, Sec. 2, 70 Stat. 532; Pub. L. 85-755, Sec. 3, Aug. 25, 1958, 72 Stat. 848; Pub. L. 91-358, title I, Sec. 172(e), July 29, 1970, 84 Stat. 591; Pub. L. 95-598, title II, Secs. 203, 204, Nov. 6, 1978, 92 Stat. 2660; Pub. L. 96-417, title V, Sec. 501(7), Oct. 10, 1980, 94 Stat. 1742; Pub. L. 97-164, title I, Sec. 109, Apr. 2, 1982, 96 Stat. 28.)

-MISC1-

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., Secs. 17, 21 and 216 (Mar. 3, 1911, ch. 231, Secs. 13, 17, 120, 36 Stat. 1089, 1132; Sept. 14, 1922, ch. 306, Sec. 3, 42 Stat. 839; Aug. 24, 1937, ch. 754, Sec. 4, 50 Stat. 753; Dec. 29, 1942, ch. 835, Sec. 1, 56 Stat. 1094).

Section consolidates and simplifies all provisions of sections 17, 21 and 216 of title 28, U.S.C., 1940 ed., relating to designation and assignment of district judges.

Term "chief judge" was substituted for "senior circuit judge." (See Reviser's Note under section 136 of this title.)

Sections 17 and 21 of title 28, U.S.C., 1940 ed., were inconsistent insofar as the words "or in his absence, the circuit judges thereof," appearing in said section 17 were not in section 21, and the words "senior circuit judge then present in the circuit," appearing in section 21 were not in section 17. The revised section omits all such words and leaves designation of assignment to the chief judge of the circuit. If the chief judge is unable to perform his duties they devolve, under section 45 of this title, upon the circuit judge next in seniority of commission.

The provision of said section 17, that designation of a district judge to another circuit should be from an adjacent circuit if practicable, was omitted as an unnecessary restriction on the discretion of the Chief Justice.

Section 19 of title 28, U.S.C., 1940 ed., is omitted as unnecessary. It authorized the Chief Justice of the United States to designate and assign any district judge to a district upon receiving a certificate from the clerk of the district that all circuit judges and the circuit justice were absent from the circuit, or were unable to appoint a substitute judge for the district, or where the district judge actually designated was disabled or neglected to hold court.

For omission of reference in said section 17 to senior Associate Justice, see reviser's note under section 291 of this title.

Reference in said section 17 to retired judges were omitted as covered by section 294 of this title.

Other provisions of said section 17 of title 28, U.S.C., 1940 ed., are incorporated in sections 291, 295, and 296 of this title.

To look up a section, use this format: **28 USC Sec. #**

Other provisions of said section 216 of such title are incorporated in sections 45 and 47 of this title.

Words "either in a district court or court of appeals" were inserted in subsection (c) as suggested by Hon. Learned Hand, Senior Circuit Judge of the Second Circuit. The revised section permits a district judge to be assigned directly to the circuit court of appeals of another circuit. Under existing law it has been assumed that he must be assigned to serve as a district judge on the other circuit and then designated to serve on the circuit court of appeals by that court in which his services are required.

Many changes were made in phraseology.

AMENDMENTS

1982 - Subsec. (e). Pub. L. 97-164 struck out "the Court of Claims, the Court of Customs and Patent Appeals or" after "to serve as a judge of" and "in which the need arises" after "chief judge of the court".

1980 - Subsec. (e). Pub. L. 96-417 redesignated the Customs Court as the Court of International Trade.

1978 - Subsecs. (b), (d). Pub. L. 95-598 directed the amendment of subsec. (b) by substituting "to hold a district court or a bankruptcy court" for "to hold a district court" and the amendment of subsec. (d) by substituting "in a bankruptcy court, district court, or court of appeals" for "either in a district court or court of appeals", which amendments did not become effective pursuant to section 402(b) of Pub. L. 95-598, as amended, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

1970 - Subsecs. (c) to (e). Pub. L. 91-358 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

1958 - Subsecs. (a) to (c). Pub. L. 85-755 reenacted subsecs. (a) to (c) without change.

Subsec. (d). Pub. L. 85-755 incorporated provisions for assignment of district judges to the Court of Customs and Patent Appeals and the Customs Court, formerly contained in section 293 of this title and subsec. (f) of this section.

Subsec. (e). Pub. L. 85-755 struck out subsec. (e) which provided for assignment of judges of the Court of Claims to district courts. See section 293(a) of this title.

Subsec. (f). Pub. L. 85-755 struck out subsec. (f) which provided for assignment of district judges to the Customs Court. See subsec. (d) of this section.

1956 - Subsec. (e). Act July 9, 1956, added subsec. (e).

Subsec. (f). Act July 14, 1956, added subsec. (f).

1954 - Subsec. (d). Act Sept. 3, 1954, struck out "United States"

To look up a section, use this format: **28 USC Sec. #**

from name of Court of Claims.

1953 - Subsec. (d). Act July 28, 1953, added subsec. (d).

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96-417, set out as a note under section 251 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-358 effective on first day of seventh calendar month which begins after July 29, 1970, see section 199(a) of Pub. L. 91-358, set out as a note under section 1257 of this title.

JURISDICTION OF UNITED STATES COURT OF CUSTOMS AND PATENT APPEALS

Amendment by Pub. L. 85-755 not limiting or altering the jurisdiction of the United States Court of Customs and Patent Appeals [now United States Court of Appeals for the Federal Circuit], see section 7 of Pub. L. 85-755, set out as a note under section 291 of this title.

LIMITATION OR ALTERATION OF JURISDICTION

Amendment by act July 14, 1956, not to be construed as limiting or altering the jurisdiction heretofore conferred upon the Customs Court [now United States Court of International Trade], see section 4 of act July 14, 1956, set out as a note under section 251 of this title.

-End-

-CITE-

28 USC Sec. 293

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 13 - ASSIGNMENT OF JUDGES TO OTHER COURTS

To look up a section, use this format: **28 USC Sec. #**

-HEAD-

Sec. 293. Judges of the Court of International Trade

-STATUTE-

(a) (!) The Chief Justice of the United States may designate and assign temporarily any judge of the Court of International Trade to perform judicial duties in any circuit, either in a court of appeals or district court, upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit in which the need arises.

-SOURCE-

(June 25, 1948, ch. 646, 62 Stat. 901; July 14, 1956, ch. 589, Sec. 3(a), 70 Stat. 532; Pub. L. 85-755, Sec. 4, Aug. 25, 1958, 72 Stat. 848; Pub. L. 95-598, title II, Sec. 205, Nov. 6, 1978, 92 Stat. 2660; Pub. L. 96-417, title I, Sec. 102, title V, Sec. 501(8), Oct. 10, 1980, 94 Stat. 1727, 1742; Pub. L. 97-164, title I, Sec. 110(a), (b), Apr. 2, 1982, 96 Stat. 29.)

-MISC1-

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., Sec. 301 (Mar. 3, 1911, ch. 231, Sec. 188, 36 Stat. 1143; Mar. 2, 1929, ch. 488, Sec. 1, 45 Stat. 1475).

Section simplifies last sentence of section 301 of title 28, U.S.C., 1940 ed., and is in conformity with other designation and assignment provisions of this chapter.

Other provisions of said section 301 of title 28, U.S.C., 1940 ed., are incorporated in sections 211-213, 215, and 296 of this title.

This section transfers from the President to the Chief Justice of the United States the authority to designate and assign which is in conformity with sections 201 and 292 of this title.

The words "he is willing to undertake" were added to make clear that such service is voluntary.

The term "chief judge" was substituted for "presiding judge." (See reviser's note under section 136 of this title.)

Changes were made in phraseology.

AMENDMENTS

1982 - Pub. L. 97-164, Sec. 110(b), substituted "the Court of International Trade" for "other courts" in section catchline.

Subsec. (a). Pub. L. 97-164, Sec. 110(a)(1), (2), redesignated subsec. (b) as (a). Former subsec. (a), which authorized the Chief

To look up a section, use this format: **28 USC Sec. #**

Justice to designate and assign judges of the Court of Claims or the Court of Customs and Patent Appeals to serve temporarily on the other of these two courts or in a court of appeals or district court of any circuit in times of necessity, was struck out.

Subsec. (b). Pub. L. 97-164, Sec. 110(a)(2), (3), redesignated subsec. (e), as that subsec. was to have become effective pursuant to Pub. L. 95-598, as subsec. (b). Former subsec. (b) redesignated (a). See 1978 Amendment note below.

Subsecs. (c), (d). Pub. L. 97-164, Sec. 110(a)(1), struck out subsecs. (c) and (d) which related, respectively, to the authority of the chief judge of the Court of Customs and Patent Appeals to designate and assign temporarily any judge of the Court of Customs and Patent Appeals to serve as a judge of the Court of International Trade and to the authority of the chief judge of the Court of International Trade to designate and assign temporarily any judge of the Court of International Trade to serve as a judge of the Court of Customs and Patent Appeals or the Court of Claims.

Subsec. (e). Pub. L. 97-164, Sec. 110(a)(3), redesignated subsec. (e), as that subsec. was to have become effective pursuant to Pub. L. 95-598, as subsec. (b). See 1978 Amendment note below.

1980 - Subsec. (b). Pub. L. 96-417, Sec. 102(a), redesignated the Customs Court as the Court of International Trade and authorized performance of judicial functions in a court of appeals.

Subsec. (c). Pub. L. 96-417, Sec. 501(8), redesignated the Customs Court as the Court of International Trade.

Subsec. (d). Pub. L. 96-417, Sec. 102(b), redesignated the Customs Court as the Court of International Trade and authorized temporary assignments to the Court of Claims of judges of the Court of International Trade upon presentation of a certificate of necessity by the chief judge of the Court of Claims.

1978 - Subsec. (e). Pub. L. 95-598 directed the amendment of this section by adding subsec. (e) relating to temporary assignments of bankruptcy judges, which amendment did not become effective pursuant to section 402(b) of Pub. L. 95-598, as amended, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

1958 - Pub. L. 85-755 substituted "Judges of other courts" for "Circuit or district judges to court of customs and patent appeals" in section catchline.

Subsec. (a). Pub. L. 85-755 added subsec. (a). It incorporates provisions of former sections 291(a), (b) and 292(e) of this title respecting assignment of any judge of the Court of Claims to serve as circuit judge in any circuit, assignment of judges of the Court of Customs and Patent Appeals to serve as judges of the Court of Appeals or the District Court of Appeals or the District Court for the District of Columbia, and assignment of judges of the Court of

To look up a section, use this format: **28 USC Sec. #**

Claims to district courts, respectively.

Subsec. (b). Pub. L. 85-755 designated existing second par. as subsec. (b).

Subsecs. (c), (d). Pub. L. 85-755 added subsecs. (c) and (d).

1956 - Act July 14, 1956, authorized the Chief Justice of the United States to designate and assign temporarily a judge of the Customs Court to perform judicial duties in a district court in any circuit.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96-417, set out as a note under section 251 of this title.

JURISDICTION OF UNITED STATES COURT OF CUSTOMS AND PATENT APPEALS

Amendment by Pub. L. 85-755 not limiting or altering the jurisdiction of the United States Court of Customs and Patent Appeals [now United States Court of Appeals for the Federal Circuit], see section 7 of Pub. L. 85-755, set out as a note under section 291 of this title.

LIMITATION OR ALTERATION OF JURISDICTION

Amendment by act July 14, 1956, not to be construed as limiting or altering the jurisdiction heretofore conferred upon the Customs Court [now United States Court of International Trade], see section 4 of act July 14, 1956, set out as a note under section 251 of this title.

-FOOTNOTE-

(!1) So in original. No subsec. (b) has been enacted.

-End-

-CITE-

28 USC Sec. 294

01/03/05

-EXPCITE-

To look up a section, use this format: **28 USC Sec. #**

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 13 - ASSIGNMENT OF JUDGES TO OTHER COURTS

-HEAD-

Sec. 294. Assignment of retired Justices or judges to active duty

-STATUTE-

(a) Any retired Chief Justice of the United States or Associate Justice of the Supreme Court may be designated and assigned by the Chief Justice of the United States to perform such judicial duties in any circuit, including those of a circuit justice, as he is willing to undertake.

(b) Any judge of the United States who has retired from regular active service under section 371(b) or 372(a) of this title shall be known and designated as a senior judge and may continue to perform such judicial duties as he is willing and able to undertake, when designated and assigned as provided in subsections (c) and (d).

(c) Any retired circuit or district judge may be designated and assigned by the chief judge or judicial council of his circuit to perform such judicial duties within the circuit as he is willing and able to undertake. Any other retired judge of the United States may be designated and assigned by the chief judge of his court to perform such judicial duties in such court as he is willing and able to undertake.

(d) The Chief Justice of the United States shall maintain a roster of retired judges of the United States who are willing and able to undertake special judicial duties from time to time outside their own circuit, in the case of a retired circuit or district judge, or in a court other than their own, in the case of other retired judges, which roster shall be known as the roster of senior judges. Any such retired judge of the United States may be designated and assigned by the Chief Justice to perform such judicial duties as he is willing and able to undertake in a court outside his own circuit, in the case of a retired circuit or district judge, or in a court other than his own, in the case of any other retired judge of the United States. Such designation and assignment to a court of appeals or district court shall be made upon the presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises and to any other court of the United States upon the presentation of a certificate of necessity by the chief judge of such court. No such designation or assignment shall be made to the Supreme Court.

(e) No retired justice or judge shall perform judicial duties except when designated and assigned.

To look up a section, use this format: **28 USC Sec. #**

-SOURCE-

(June 25, 1948, ch. 646, 62 Stat. 901; July 9, 1956, ch. 517, Sec. 1(c), 70 Stat. 497; Pub. L. 85-219, Aug. 29, 1957, 71 Stat. 495; Pub. L. 85-755, Sec. 5, Aug. 25, 1958, 72 Stat. 849; Pub. L. 95-598, title II, Sec. 206, Nov. 6, 1978, 92 Stat. 2660.)

-MISC1-

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., Secs. 375, 375a, and 375f (Mar. 3, 1911, ch. 231, Sec. 260, 36 Stat. 1161; Feb. 25, 1919, ch. 29, Sec. 6, 40 Stat. 1157; Mar. 1, 1929, ch. 419, 45 Stat. 1422; Mar. 1, 1937, ch. 21, 50 Stat. 24; Feb. 11, 1938, ch. 25, 52 Stat. 28; Aug. 5, 1939, ch. 433, Sec. 5, as added May 11, 1944, ch. 192, Secs. 1-3, 58 Stat. 218, 219).

Section consolidates those parts of sections 375, 375a, and 375f of title 28, U.S.C., 1940 ed., relating to designation and assignment of retired justices and judges. Other provisions of said sections 375 and 375a, appear in sections 136, 371, and 756 of this title.

The term "chief judge" was substituted for "presiding judge or senior judge." (See Reviser's Note under section 136 of this title.)

Changes were made in phraseology.

AMENDMENTS

1978 - Subsecs. (c), (d). Pub. L. 95-598 directed the amendment of subsec. (c) by substituting "district or bankruptcy judge" for "or district" and the amendment of subsec. (d) by substituting "district judge or bankruptcy judge" for "or district judge", which amendments did not become effective pursuant to section 402(b) of Pub. L. 95-598, as amended, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

1958 - Subsec. (a). Pub. L. 85-755 reenacted subsec. (a) without change.

Subsecs. (b) to (d). Pub. L. 85-755 revised and rearranged subject matter to apply "senior judge" to all judges who retire from regular active service under sections 371(b) and 372(a) of this title, while retaining their commissions, rather than merely to those who ask to be placed on the Chief Justice's roster, to lodge solely in the chief judge and judicial council of the circuit concerned the intracircuit assignment power, and in the Chief Justice the power to assign retired judges beyond their circuits or special courts.

Subsec. (e). Pub. L. 85-755 reenacted subsec. (e) without change.

To look up a section, use this format: **28 USC Sec. #**

1957 - Subsec. (d). Pub. L. 85-219 added subsec. (d).

1956 - Subsec. (b). Act July 9, 1956, inserted provisions relating to assignment of retired judges of the Court of Claims.

JURISDICTION OF UNITED STATES COURT OF CUSTOMS AND PATENT APPEALS

Amendment by Pub. L. 85-755 not limiting or altering the jurisdiction of the United States Court of Customs and Patent Appeals [now United States Court of Appeals for the Federal Circuit], see section 7 of Pub. L. 85-755, set out as a note under section 291 of this title.

-End-

-CITE-

28 USC Sec. 295

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 13 - ASSIGNMENT OF JUDGES TO OTHER COURTS

-HEAD-

Sec. 295. Conditions upon designation and assignment

-STATUTE-

No designation and assignment of a circuit or district judge in active service shall be made without the consent of the chief judge or judicial council of the circuit from which the judge is to be designated and assigned. No designation and assignment of a judge of any other court of the United States in active service shall be made without the consent of the chief judge of such court.

All designations and assignments of justices and judges shall be filed with the clerks and entered on the minutes of the courts from and to which made.

The Chief Justice of the United States, a circuit justice or a chief judge of a circuit may make new designation and assignments in accordance with the provisions of this chapter and may revoke those previously made by him.

-SOURCE-

(June 25, 1948, ch. 646, 62 Stat. 901; Sept. 3, 1954, ch. 1263, Sec. 39(d), 68 Stat. 1240; July 14, 1956, ch. 589, Sec. 3(b), 70 Stat. 532; Pub. L. 85-755, Sec. 6, Aug. 25, 1958, 72 Stat. 850; Pub. L. 95-598, title II, Sec. 207, Nov. 6, 1978, 92 Stat. 2660.)

To look up a section, use this format: **28 USC Sec. #**

-MISC1-

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., Secs. 17, 20 (Mar. 3, 1911, ch. 231, Secs. 13, 16, 36 Stat. 1089; Sept. 14, 1922, ch. 306, Sec. 3, 42 Stat. 839; Aug. 24, 1937, ch. 754, Sec. 4, 50 Stat. 753; Dec. 29, 1942, ch. 835, Secs. 1, 4, 56 Stat. 1094, 1095).

This section consolidates and simplifies provisions of sections 17 and 20 of title 28, U.S.C., 1940 ed., relating to conditions upon designation and assignment as well as those applicable to filing, revoking and making new designations.

Other provisions of section 17 of title 28, U.S.C., 1940 ed., are incorporated in section 291, 292, and 296 of this title.

The reference in said section 20 to senior Associate Judge was omitted. (See Reviser's Note under section 291 of this title.)

The terms "chief judge" and "chief judge of a circuit" were substituted for "senior circuit judge". (See Reviser's Note under section 136 of this title.)

The alternative provision for approval by the judicial council of the circuit was inserted to conform with section 332 of this title.

Changes were made in phraseology.

AMENDMENTS

1978 - Pub. L. 95-598 directed the amendment of section by substituting "district, or bankruptcy" for "or district", which amendment did not become effective pursuant to section 402(b) of Pub. L. 95-598, as amended, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

1958 - Pub. L. 85-755 substituted "of any other court of the United States" for "of the Customs Court" in first par.

1956 - Act July 14, 1956, provided that no designation and assignment of a judge of the Customs Court in active service shall be made without the consent of the chief judge of the court.

1954 - Act Sept. 3, 1954, made it clear that the section applies only to the assignment of circuit and district judges in active service.

JURISDICTION OF UNITED STATES COURT OF CUSTOMS AND PATENT APPEALS

Amendment by Pub. L. 85-755 not limiting or altering the jurisdiction of the United States Court of Customs and Patent Appeals [now United States Court of Appeals for the Federal Circuit], see section 7 of Pub. L. 85-755, set out as a note under section 291 of this title.

LIMITATION OR ALTERATION OF JURISDICTION

To look up a section, use this format: **28 USC Sec. #**

Amendment by act July 14, 1956, not to be construed as limiting or altering the jurisdiction heretofore conferred upon the Customs Court [now United States Court of International Trade], see section 4 of act July 14, 1956, set out as a note under section 251 of this title.

-End-

-CITE-

28 USC Sec. 296

01/03/05

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 13 - ASSIGNMENT OF JUDGES TO OTHER COURTS

-HEAD-

Sec. 296. Powers upon designation and assignment

-STATUTE-

A justice or judge shall discharge, during the period of his designation and assignment, all judicial duties for which he is designated and assigned. He may be required to perform any duty which might be required of a judge of the court or district or circuit to which he is designated and assigned.

Such justice or judge shall have all the powers of a judge of the court, circuit or district to which he is designated and assigned, except the power to appoint any person to a statutory position or to designate permanently a depository of funds or a newspaper for publication of legal notices.

A justice or judge who has sat by designation and assignment in another district or circuit may, notwithstanding his absence from such district or circuit or the expiration of the period of his designation and assignment, decide or join in the decision and final disposition of all matters submitted to him during such period and in the consideration and disposition of applications for rehearing or further proceedings in such matters.

-SOURCE-

(June 25, 1948, ch. 646, 62 Stat. 901.)

-MISC1-

HISTORICAL AND REVISION NOTES

To look up a section, use this format: **28 USC Sec. #**

Based on title 28, U.S.C., 1940 ed., Secs. 17, 18, 22, 23, 301 (Mar. 3, 1911, ch. 231, Secs. 13, 14, 18, 19, 188, 36 Stat. 1089, 1143; Oct. 3, 1913, ch. 18, 38 Stat. 203; Feb. 25, 1919, ch. 29, Secs. 2, 5, 40 Stat. 1156, 1157; Sept. 14, 1922, ch. 306, Secs. 3, 4, 5, 42 Stat. 839; Dec. 13, 1926, ch. 6, Sec. 1, 44 Stat. 919; Mar. 2, 1929, ch. 488, Sec. 1, 45 Stat. 1475; June 7, 1934, ch. 426, 48 Stat. 926; June 25, 1936, ch. 804, 49 Stat. 1921; Aug. 24, 1937, ch. 754, Sec. 4, 50 Stat. 753; Dec. 29, 1942, ch. 835, Secs. 1, 2, 5, 6, 56 Stat. 1094, 1095).

Section simplifies provisions of sections 17, 18, paragraphs (b) and (c) of section 22, and sections 23 and 301 of title 28, U.S.C., 1940 ed., relating to powers and duties of designated judges.

Other provisions of said sections 17 and 22 of title 28, U.S.C., 1940 ed., are incorporated in sections 291, 292, and 295 of this title.

Other provisions of said section 301 of title 28, U.S.C., 1940 ed., are incorporated in sections 211-213, 215, and 293 of this title.

Section is made applicable to retired justices of the Supreme Court by inclusion of reference to "justice," on the theory that a justice should have the same powers and duties and be subject to the same limitations as designated and assigned circuit and district judges.

The second sentence of the revised section was substituted for the provision of section 18 of title 28, U.S.C., 1940 ed., which subjected circuit judges to the same assignments of duty as the circuit judges of the circuit to which they are designated and assigned. The revised section extends this requirement and makes it applicable to all designated and assigned judges.

The provision in the last paragraph of said section 22 that the action of the assigned judge in writing filed with the clerk of court where the trial or hearing was held shall be valid as if such action had been taken by him within the district and within the period of his designation, was omitted as surplusage. See section 295 of this title.

-End-

-CITE-

28 USC Sec. 297

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-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS

To look up a section, use this format: **28 USC Sec. #**

CHAPTER 13 - ASSIGNMENT OF JUDGES TO OTHER COURTS

-HEAD-

Sec. 297. Assignment of judges to courts of the freely associated compact states

-STATUTE-

(a) The Chief Justice or the chief judge of the United States Court of Appeals for the Ninth Circuit may assign any circuit or district judge of the Ninth Circuit, with the consent of the judge so assigned, to serve temporarily as a judge of any duly constituted court of the freely associated compact states whenever an official duly authorized by the laws of the respective compact state requests such assignment and such assignment is necessary for the proper dispatch of the business of the respective court.

(b) The Congress consents to the acceptance and retention by any judge so authorized of reimbursement from the countries referred to in subsection (a) of all necessary travel expenses, including transportation, and of subsistence, or of a reasonable per diem allowance in lieu of subsistence. The judge shall report to the Administrative Office of the United States Courts any amount received pursuant to this subsection.

-SOURCE-

(Added Pub. L. 100-702, title X, Sec. 1022(1), Nov. 19, 1988, 102 Stat. 4672.)

-End-