

18 U.S.C. §§151-158

<http://uscode.house.gov/download/pls/18C9.txt>

[as of 2002; since then only §§156-158 have been amended, which occurred in 2005 in the context of the amendment to the Bankruptcy Code by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA)]

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE

PART I - CRIMES

CHAPTER 9 - BANKRUPTCY

Sec. 151. Definition

Sec. 152. Concealment of assets; false oaths and claims; bribery

Sec. 153. Embezzlement against estate

Sec. 154. Adverse interest and conduct of officers

Sec. 155. Fee agreements in cases under title 11 and receiverships

Sec. 156. Knowing disregard of bankruptcy law or rule

Sec. 157. Bankruptcy fraud

Sec. 158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules

CHAPTER 9 - BANKRUPTCY

-MISC1-

Sec.

151. Definition.
152. Concealment of assets; false oaths and claims; bribery.
153. Embezzlement against estate.
154. Adverse interest and conduct of officers.
155. Fee agreements in cases under title 11 and receiverships.
156. Knowing disregard of bankruptcy law or rule.
157. Bankruptcy fraud.

AMENDMENTS

1994 - Pub. L. 103-394, title III, Sec. 312(a)(2), Oct. 22, 1994, 108 Stat. 4140, substituted "against estate" for "by trustee or officer" in item 153 and added items 156 and 157.

1978 - Pub. L. 95-598, title III, Sec. 314(b)(2), (d)(3), (e)(3), (f)(3), Nov. 6, 1978, 92 Stat. 2677, substituted in item 151 "Definition" for "Definitions"; struck from item 153 ", receiver" after "trustee" and from item 154 "referees and other" before "officers"; and substituted in item 155 "cases under title 11 and receiverships" for "bankruptcy proceedings".

-SECRET-

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3057 of this title.

-End-

Sec. 151. Definition

CHAPTER 9 - BANKRUPTCY

-MISC1-

Sec.

151. Definition.
152. Concealment of assets; false oaths and claims; bribery.

153. Embezzlement against estate.
154. Adverse interest and conduct of officers.
155. Fee agreements in cases under title 11 and receiverships.
156. Knowing disregard of bankruptcy law or rule.
157. Bankruptcy fraud.

AMENDMENTS

1994 - Pub. L. 103-394, title III, Sec. 312(a)(2), Oct. 22, 1994, 108 Stat. 4140, substituted "against estate" for "by trustee or officer" in item 153 and added items 156 and 157.

1978 - Pub. L. 95-598, title III, Sec. 314(b)(2), (d)(3), (e)(3), (f)(3), Nov. 6, 1978, 92 Stat. 2677, substituted in item 151 "Definition" for "Definitions"; struck from item 153 ", receiver" after "trustee" and from item 154 "referees and other" before "officers"; and substituted in item 155 "cases under title 11 and receiverships" for "bankruptcy proceedings".

-SECRET-

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3057 of this title.

-End-

Sec. 152. Concealment of assets; false oaths and claims; bribery

Sec. 152. Concealment of assets; false oaths and claims; bribery

-STATUTE-

A person who -

(1) knowingly and fraudulently conceals from a custodian, trustee, marshal, or other officer of the court charged with the control or custody of property, or, in connection with a case under title 11, from creditors or the United States Trustee, any property belonging to the estate of a debtor;

(2) knowingly and fraudulently makes a false oath or account in or in relation to any case under title 11;

(3) knowingly and fraudulently makes a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, in or in relation to any case under title 11;

(4) knowingly and fraudulently presents any false claim for proof against the estate of a debtor, or uses any such claim in any case under title 11, in a personal capacity or as or through an agent, proxy, or attorney;

(5) knowingly and fraudulently receives any material amount of property from a debtor after the filing of a case under title 11, with intent to defeat the provisions of title 11;

(6) knowingly and fraudulently gives, offers, receives, or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof for acting or forbearing to act in any case under title 11;

(7) in a personal capacity or as an agent or officer of any person or corporation, in contemplation of a case under title 11 by or against the person or any other person or corporation, or with intent to defeat the provisions of title 11, knowingly and fraudulently transfers or conceals any of his property or the property of such other person or corporation;

(8) after the filing of a case under title 11 or in contemplation thereof, knowingly and fraudulently conceals, destroys, mutilates, falsifies, or makes a false entry in any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor; or

(9) after the filing of a case under title 11, knowingly and fraudulently withholds from a custodian, trustee, marshal, or other officer of the court or a United States Trustee entitled to its possession, any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor,

shall be fined under this title, imprisoned not more than 5 years,

or both.

-SOURCE-

(June 25, 1948, ch. 645, 62 Stat. 689; Pub. L. 86-519, Sec. 2, June 12, 1960, 74 Stat. 217; Pub. L. 86-701, Sept. 2, 1960, 74 Stat. 753; Pub. L. 94-550, Sec. 4, Oct. 18, 1976, 90 Stat. 2535; Pub. L. 95-598, title III, Sec. 314(a), (c), Nov. 6, 1978, 92 Stat. 2676, 2677; Pub. L. 100-690, title VII, Sec. 7017, Nov. 18, 1988, 102 Stat. 4395; Pub. L. 103-322, title XXXIII, Sec. 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 103-394, title III, Sec. 312(a)(1)(A), Oct. 22, 1994, 108 Stat. 4138; Pub. L. 104-294, title VI, Sec. 601(a)(1), Oct. 11, 1996, 110 Stat. 3497.)

-MISC1-

HISTORICAL AND REVISION NOTES

Based on section 52(b) of title 11, U.S.C., 1940 ed., Bankruptcy (July 1, 1898, ch. 541, Sec. 29b, 30 Stat. 554; May 27, 1926, ch. 406, Sec. 11 (part), 44 Stat. 665; June 22, 1938, ch. 575, Sec. 1 (part), 52 Stat. 855).

Section was broadened to apply to one who gives or offers a bribe.

Minor changes were made in phraseology.

AMENDMENTS

1996 - Pub. L. 104-294 substituted "fined under this title" for "fined not more than \$5,000" in closing provisions.

1994 - Pub. L. 103-394 amended section generally, designating undesignated pars. as opening provisions, pars. (1) to (9), and closing provisions, and in pars. (1) and (9) inserting reference to United States Trustee.

Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$5,000" in last par.

1988 - Pub. L. 100-690 substituted "penalty of perjury" for "penalty or perjury" in third par.

1978 - Pub. L. 95-598 substituted, wherever appearing, "debtor" for "bankrupt", "case under title 11" for "bankruptcy proceeding",

and "provisions of title 11" for "bankruptcy law"; and substituted "a custodian" for "the receiver, custodian", wherever appearing, and "recorded information, including books, documents, records, and papers, relating to the property or financial affairs" for "document affecting or relating to the property or affairs", in two places.

1976 - Pub. L. 94-550 inserted paragraph covering the knowing and fraudulent making of a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28 or in relation to any bankruptcy proceeding.

1960 - Pub. L. 86-701 included fraudulent transfers and concealment of property by persons in their individual capacity in sixth par.

Pub. L. 86-519 struck out "under oath" after "knowingly and fraudulently presents" in third par.

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 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

SAVINGS PROVISION

Amendment by section 314 of Pub. L. 95-598 not to affect the application of chapter 9 (Sec. 151 et seq.), chapter 96 (Sec. 1961 et seq.), or section 2516, 3057, or 3284 of this title to any act of any person (1) committed before Oct. 1, 1979, or (2) committed after Oct. 1, 1979, in connection with a case commenced before such date, see section 403(d) of Pub. L. 95-598, set out as a note preceding section 101 of Title 11, Bankruptcy.

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1956 of this title; title 7 section 12a; title 15 sections 78o, 80b-3.

-End-

Sec. 153. Embezzlement against estate

18 USC Sec. 153

01/19/04

-EXPCITE-

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE

PART I - CRIMES

CHAPTER 9 - BANKRUPTCY

-HEAD-

Sec. 153. Embezzlement against estate

-STATUTE-

(a) Offense. - A person described in subsection (b) who knowingly and fraudulently appropriates to the person's own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor shall be fined under this title, imprisoned not more than 5 years, or both.

(b) Person to Whom Section Applies. - A person described in this subsection is one who has access to property or documents belonging to an estate by virtue of the person's participation in the administration of the estate as a trustee, custodian, marshal, attorney, or other officer of the court or as an agent, employee, or other person engaged by such an officer to perform a service with respect to the estate.

-SOURCE-

(June 25, 1948, ch. 645, 62 Stat. 690; Pub. L. 95-598, title III,

Sec. 314(a)(1), (d)(1), (2), Nov. 6, 1978, 92 Stat. 2676, 2677;
Pub. L. 103-322, title XXXIII, Sec. 330016(1)(K), Sept. 13, 1994,
108 Stat. 2147; Pub. L. 103-394, title III, Sec. 312(a)(1)(A), Oct.
22, 1994, 108 Stat. 4139; Pub. L. 104-294, title VI, Sec.
601(a)(1), Oct. 11, 1996, 110 Stat. 3497.)

-MISC1-

HISTORICAL AND REVISION NOTES

Based on section 52(a) of title 11, U.S.C., 1940 ed., Bankruptcy
(July 1, 1898, ch. 541, Sec. 29a, 30 Stat. 554; May 27, 1926, ch.
406, Sec. 11 (part), 44 Stat. 665; June 22, 1938, ch. 575, Sec. 1
(part), 52 Stat. 855).

Minor changes were made in phraseology.

AMENDMENTS

1996 - Subsec. (a). Pub. L. 104-294 substituted "fined under this
title" for "fined not more than \$5,000".

1994 - Pub. L. 103-394 amended section generally. Prior to
amendment, section read as follows: "Whoever knowingly and
fraudulently appropriates to his own use, embezzles, spends, or
transfers any property or secretes or destroys any document
belonging to the estate of a debtor which came into his charge as
trustee, custodian, marshal, or other officer of the court, shall
be fined under this title or imprisoned not more than five years,
or both."

Pub. L. 103-322 substituted "fined under this title" for "fined
not more than \$5,000".

1978 - Pub. L. 95-598 struck out ", receiver" after "trustee" in
section catchline and in text struck out "receiver," before
"custodian" and substituted "debtor" for "bankrupt".

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 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

SAVINGS PROVISION

Amendment by section 314 of Pub. L. 95-598 not to affect the application of chapter 9 (Sec. 151 et seq.), chapter 96 (Sec. 1961 et seq.), or section 2516, 3057, or 3284 of this title to any act of any person (1) committed before Oct. 1, 1979, or (2) committed after Oct. 1, 1979, in connection with a case commenced before such date, see section 403(d) of Pub. L. 95-598, set out as a note preceding section 101 of Title 11, Bankruptcy.

-End-

Sec. 154. Adverse interest and conduct of officers

18 USC Sec. 153

01/19/04

-EXPCITE-

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE
PART I - CRIMES
CHAPTER 9 - BANKRUPTCY

-HEAD-

Sec. 153. Embezzlement against estate

-STATUTE-

(a) Offense. - A person described in subsection (b) who knowingly and fraudulently appropriates to the person's own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor shall be fined under this title, imprisoned not more than 5 years, or both.

(b) Person to Whom Section Applies. - A person described in this

subsection is one who has access to property or documents belonging to an estate by virtue of the person's participation in the administration of the estate as a trustee, custodian, marshal, attorney, or other officer of the court or as an agent, employee, or other person engaged by such an officer to perform a service with respect to the estate.

-SOURCE-

(June 25, 1948, ch. 645, 62 Stat. 690; Pub. L. 95-598, title III, Sec. 314(a)(1), (d)(1), (2), Nov. 6, 1978, 92 Stat. 2676, 2677; Pub. L. 103-322, title XXXIII, Sec. 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 103-394, title III, Sec. 312(a)(1)(A), Oct. 22, 1994, 108 Stat. 4139; Pub. L. 104-294, title VI, Sec. 601(a)(1), Oct. 11, 1996, 110 Stat. 3497.)

-MISC1-

HISTORICAL AND REVISION NOTES

Based on section 52(a) of title 11, U.S.C., 1940 ed., Bankruptcy (July 1, 1898, ch. 541, Sec. 29a, 30 Stat. 554; May 27, 1926, ch. 406, Sec. 11 (part), 44 Stat. 665; June 22, 1938, ch. 575, Sec. 1 (part), 52 Stat. 855).

Minor changes were made in phraseology.

AMENDMENTS

1996 - Subsec. (a). Pub. L. 104-294 substituted "fined under this title" for "fined not more than \$5,000".

1994 - Pub. L. 103-394 amended section generally. Prior to amendment, section read as follows: "Whoever knowingly and fraudulently appropriates to his own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor which came into his charge as trustee, custodian, marshal, or other officer of the court, shall be fined under this title or imprisoned not more than five years, or both."

Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$5,000".

1978 - Pub. L. 95-598 struck out ", receiver" after "trustee" in section catchline and in text struck out "receiver," before "custodian" and substituted "debtor" for "bankrupt".

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 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

SAVINGS PROVISION

Amendment by section 314 of Pub. L. 95-598 not to affect the application of chapter 9 (Sec. 151 et seq.), chapter 96 (Sec. 1961 et seq.), or section 2516, 3057, or 3284 of this title to any act of any person (1) committed before Oct. 1, 1979, or (2) committed after Oct. 1, 1979, in connection with a case commenced before such date, see section 403(d) of Pub. L. 95-598, set out as a note preceding section 101 of Title 11, Bankruptcy.

-End-

Sec. 155. Fee agreements in cases under title 11 and receiverships

18 USC Sec. 153

01/19/04

-EXPCITE-

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE

PART I - CRIMES

CHAPTER 9 - BANKRUPTCY

-HEAD-

Sec. 153. Embezzlement against estate

-STATUTE-

(a) Offense. - A person described in subsection (b) who knowingly and fraudulently appropriates to the person's own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor shall be fined under this title, imprisoned not more than 5 years, or both.

(b) Person to Whom Section Applies. - A person described in this subsection is one who has access to property or documents belonging to an estate by virtue of the person's participation in the administration of the estate as a trustee, custodian, marshal, attorney, or other officer of the court or as an agent, employee, or other person engaged by such an officer to perform a service with respect to the estate.

-SOURCE-

(June 25, 1948, ch. 645, 62 Stat. 690; Pub. L. 95-598, title III, Sec. 314(a)(1), (d)(1), (2), Nov. 6, 1978, 92 Stat. 2676, 2677; Pub. L. 103-322, title XXXIII, Sec. 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 103-394, title III, Sec. 312(a)(1)(A), Oct. 22, 1994, 108 Stat. 4139; Pub. L. 104-294, title VI, Sec. 601(a)(1), Oct. 11, 1996, 110 Stat. 3497.)

-MISC1-

HISTORICAL AND REVISION NOTES

Based on section 52(a) of title 11, U.S.C., 1940 ed., Bankruptcy (July 1, 1898, ch. 541, Sec. 29a, 30 Stat. 554; May 27, 1926, ch. 406, Sec. 11 (part), 44 Stat. 665; June 22, 1938, ch. 575, Sec. 1 (part), 52 Stat. 855).

Minor changes were made in phraseology.

AMENDMENTS

1996 - Subsec. (a). Pub. L. 104-294 substituted "fined under this

title" for "fined not more than \$5,000".

1994 - Pub. L. 103-394 amended section generally. Prior to amendment, section read as follows: "Whoever knowingly and fraudulently appropriates to his own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor which came into his charge as trustee, custodian, marshal, or other officer of the court, shall be fined under this title or imprisoned not more than five years, or both."

Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$5,000".

1978 - Pub. L. 95-598 struck out ", receiver" after "trustee" in section catchline and in text struck out "receiver," before "custodian" and substituted "debtor" for "bankrupt".

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 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

SAVINGS PROVISION

Amendment by section 314 of Pub. L. 95-598 not to affect the application of chapter 9 (Sec. 151 et seq.), chapter 96 (Sec. 1961 et seq.), or section 2516, 3057, or 3284 of this title to any act of any person (1) committed before Oct. 1, 1979, or (2) committed after Oct. 1, 1979, in connection with a case commenced before such date, see section 403(d) of Pub. L. 95-598, set out as a note preceding section 101 of Title 11, Bankruptcy.

-End-

Sec. 156. Knowing disregard of bankruptcy law or rule [with BAPCPA amendment]

18 USC Sec. 156

01/19/04

-EXPCITE-

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE
PART I - CRIMES
CHAPTER 9 - BANKRUPTCY

-HEAD-

Sec. 156. Knowing disregard of bankruptcy law or rule

-STATUTE-

(a) Definitions. - In this section -

“(1) the term”¹“bankruptcy petition preparer” means a person, other than the

debtor's attorney or an employee of such an attorney, who prepares for compensation a document for filing “; and

“(2) the term” “document for filing” means a petition or any other document

prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under title 11.

(b) Offense. - If a bankruptcy case or related proceeding is dismissed because of a knowing attempt by a bankruptcy petition

¹ [BAPCPA, PUBLIC LAW 109-8—APR. 20, 2005 119 STAT. 195

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting “(1) the term” before “ ‘bankruptcy’”;

and

(B) by striking the period at the end and inserting

“; and”; and

(2) in the second undesignated paragraph—

(A) by inserting “(2) the term” before “ ‘document’”;

and

(B) by striking “this title” and inserting “title 11”.

preparer in any manner to disregard the requirements of title 11, United States Code, or the Federal Rules of Bankruptcy Procedure, the bankruptcy petitioner shall be fined under this title, imprisoned not more than 1 year, or both.

-SOURCE-

(Added Pub. L. 103-394, title III, Sec. 312(a)(1)(B), Oct. 22, 1994, 108 Stat. 4140.)

-REFTEXT-

REFERENCES IN TEXT

The Federal Rules of Bankruptcy Procedure, referred to in subsec. (b), are set out in the Appendix to Title 11, Bankruptcy.

-MISC1-

EFFECTIVE DATE

Section 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 an Effective Date of 1994 Amendment note under section 101 of Title 11.

-End-

Sec. 157. Bankruptcy fraud [with BAPCPA amendment]

18 USC Sec. 157

01/19/04

-EXPCITE-

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE
PART I - CRIMES
CHAPTER 9 - BANKRUPTCY

-HEAD-

Sec. 157. Bankruptcy fraud

-STATUTE-

A person who, having devised or intending to devise a scheme or artifice to defraud and for the purpose of executing or concealing such a scheme or artifice or attempting to do so -

(1) files a petition under title 11; “, including a fraudulent involuntary bankruptcy petition under section 303 of such title”²

(2) files a document in a proceeding under title 11; or

(3) makes a false or fraudulent representation, claim, or promise concerning or in relation to a proceeding under title 11, at any time before or after the filing of the petition, or in relation to a proceeding falsely asserted to be pending under such title,

shall be fined under this title, imprisoned not more than 5 years, or both.

-SOURCE-

(Added Pub. L. 103-394, title III, Sec. 312(a)(1)(B), Oct. 22, 1994, 108 Stat. 4140.)

-MISC1-

EFFECTIVE DATE

Section 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 an Effective Date of 1994 Amendment note under section 101 of Title 11.

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1961 of this title.

² [BAPCPA, PUBLIC LAW 109-8—APR. 20, 2005 119 STAT. 103 (c) BANKRUPTCY FRAUD.—Section 157 of title 18, United States Code, is amended by inserting “, including a fraudulent involuntary bankruptcy petition under section 303 of such title” after “title 11”.]

-End-

Sec. 158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules [introduced by BAPCPA of 2005]

PUBLIC LAW 109-8 —APR. 20, 2005 119 STAT. 49,

BAPCPA Sec. 203(b)(1)

§ 158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules

“(a) IN GENERAL. — The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out enforcement activities in addressing violations of section 152 or 157 relating to abusive reaffirmations of debt. In addition to addressing the violations referred to in the preceding sentence, the individuals described under subsection (b) shall address violations of section 152 or 157 relating to materially fraudulent statements in bankruptcy schedules that are intentionally false or intentionally misleading.

“(b) UNITED STATES ATTORNEYS AND AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION. — The individuals referred to in subsection (a) are —

“(1) the United States attorney for each judicial district of the United States; and

“(2) an agent of the Federal Bureau of Investigation for each field office of the Federal Bureau of Investigation.

“(c) BANKRUPTCY INVESTIGATIONS. — Each United States attorney designated under this section shall, in addition to any other responsibilities, have primary responsibility for carrying out the duties of a United States attorney under section 3057.

“(d) BANKRUPTCY PROCEDURES. — The bankruptcy courts shall establish procedures for referring any case that may contain a materially fraudulent statement in a bankruptcy schedule to the individuals designated under this section.”.

(2) CLERICAL AMENDMENT. — The table of sections for chapter 9 of title 18, United States Code, is amended by adding at the end the following:

“158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules.”.

<http://uscode.house.gov/download/pls/18C73.txt>

-CITE-

18 USC Sec. 1519

01/19/04

-EXPCITE-

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE

PART I - CRIMES

CHAPTER 73 - OBSTRUCTION OF JUSTICE

-HEAD-

Sec. 1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy

-STATUTE-

Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both.

-SOURCE-

(Added Pub. L. 107-204, title VIII, Sec. 802(a), July 30, 2002, 116 Stat. 800.)

-End-

<http://uscode.house.gov/download/pls/18C96.txt>

-CITE-

18 USC CHAPTER 96 - RACKETEER INFLUENCED AND CORRUPT
ORGANIZATIONS 01/19/04

-EXPCITE-

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE
PART I - CRIMES
CHAPTER 96 - RACKETEER INFLUENCED AND CORRUPT
ORGANIZATIONS

-HEAD-

CHAPTER 96 - RACKETEER INFLUENCED AND CORRUPT
ORGANIZATIONS

-MISC1-

Sec.
1961. Definitions.
1962. Prohibited activities.
1963. Criminal penalties.
1964. Civil remedies.
1965. Venue and process.
1966. Expedition of actions.
1967. Evidence.
1968. Civil investigative demand.

AMENDMENTS

1990 - Pub. L. 101-647, title XXXV, Sec. 3559, Nov. 29, 1990, 104
Stat. 4927, struck out "racketeering" after "Prohibited" in item
1962.

1970 - Pub. L. 91-452, title IX, Sec. 901(a), Oct. 15, 1970, 84
Stat. 941, added chapter 96 and items 1961 to 1968.

-SECREP-

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 3582, 3663 of this title;
title 7 section 12a.

-End-

-CITE-

18 USC Sec. 1961

01/19/04

-EXPCITE-

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE
PART I - CRIMES
CHAPTER 96 - RACKETEER INFLUENCED AND CORRUPT
ORGANIZATIONS

-HEAD-

Sec. 1961. Definitions

-STATUTE-

As used in this chapter -

(1) "racketeering activity" means

(A) any act or threat

involving murder, kidnapping, gambling, arson, robbery, bribery,
extortion, dealing in obscene matter, or dealing in a controlled
substance or listed chemical (as defined in section 102 of the
Controlled Substances Act), which is chargeable under State law
and punishable by imprisonment for more than one year;

(B) any

act which is indictable under any of the following provisions of
title 18, United States Code:

Section 201 (relating to bribery),

section 224 (relating to sports bribery),

sections 471, 472, and
473 (relating to counterfeiting),

section 659 (relating to theft
from interstate shipment) if the act indictable under section 659
is felonious,

section 664 (relating to embezzlement from pension
and welfare funds),

sections 891-894 (relating to extortionate
credit transactions),

section 1028 (relating to fraud and related
activity in connection with identification documents),

section
1029 (relating to fraud and related activity in connection with
access devices),

section 1084 (relating to the transmission of
gambling information),

section 1341 (relating to mail fraud),

section 1343 (relating to wire fraud),

section 1344 (relating to
financial institution fraud),

section 1425 (relating to the
procurement of citizenship or nationalization unlawfully),

section 1426 (relating to the reproduction of naturalization or
citizenship papers),

section 1427 (relating to the sale of

naturalization or citizenship papers),

sections 1461-1465

(relating to obscene matter),

section 1503 (relating to
obstruction of justice),

section 1510 (relating to obstruction of
criminal investigations),

section 1511 (relating to the
obstruction of State or local law enforcement),

section 1512

(relating to tampering with a witness, victim, or an informant),

section 1513 (relating to retaliating against a witness, victim,
or an informant),

section 1542 (relating to false statement in
application and use of passport),

section 1543 (relating to
forgery or false use of passport),

section 1544 (relating to
misuse of passport),

section 1546 (relating to fraud and misuse
of visas, permits, and other documents),

sections 1581-1591

(relating to peonage, slavery, and trafficking in persons).(!)

section 1951 (relating to interference with commerce, robbery, or
extortion),

section 1952 (relating to racketeering),

section 1953

(relating to interstate transportation of wagering paraphernalia),

section 1954 (relating to unlawful welfare fund payments),

section 1955 (relating to the prohibition of illegal gambling businesses),

section 1956 (relating to the laundering of monetary instruments),

section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity),

section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire),

sections 2251,

2251A, 2252, and 2260 (relating to sexual exploitation of children),

sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles),

sections 2314 and 2315

(relating to interstate transportation of stolen property),

section 2318 (relating to trafficking in counterfeit labels for phonorecords, computer programs or computer program documentation

or packaging and copies of motion pictures or other audiovisual

works),

section 2319 (relating to criminal infringement of a copyright),

section 2319A (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances),

section 2320 (relating to trafficking in goods or services bearing counterfeit marks),

section 2321
(relating to trafficking in certain motor vehicles or motor vehicle parts),

sections 2341-2346 (relating to trafficking in contraband cigarettes),

sections 2421-24 (relating to white slave traffic),

(C) any act which is indictable under title 29, United States Code, section 186 (dealing with restrictions on payments and loans to labor organizations) or section 501(c) (relating to embezzlement from union funds),

(D) any offense involving fraud connected with a case under title 11 (except a case under section 157 of this title), fraud in the sale of securities, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), punishable under any law of the United States,

(E) any act which is indictable under the Currency and Foreign Transactions Reporting Act,

(F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain, or (G) any act that is indictable under any provision listed in section 2332b(g)(5)(B);

(2) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof;

(3) "person" includes any individual or entity capable of holding a legal or beneficial interest in property;

(4) "enterprise" includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity;

(5) "pattern of racketeering activity" requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity;

(6) "unlawful debt" means a debt (A) incurred or contracted in gambling activity which was in violation of the law of the United States, a State or political subdivision thereof, or which is unenforceable under State or Federal law in whole or in part as to principal or interest because of the laws relating to usury, and (B) which was incurred in connection with the business of gambling in violation of the law of the United States, a State or political subdivision thereof, or the business of lending money

or a thing of value at a rate usurious under State or Federal law, where the usurious rate is at least twice the enforceable rate;

(7) "racketeering investigator" means any attorney or investigator so designated by the Attorney General and charged with the duty of enforcing or carrying into effect this chapter;

(8) "racketeering investigation" means any inquiry conducted by any racketeering investigator for the purpose of ascertaining whether any person has been involved in any violation of this chapter or of any final order, judgment, or decree of any court of the United States, duly entered in any case or proceeding arising under this chapter;

(9) "documentary material" includes any book, paper, document, record, recording, or other material; and

(10) "Attorney General" includes the Attorney General of the United States, the Deputy Attorney General of the United States, the Associate Attorney General of the United States, any Assistant Attorney General of the United States, or any employee of the Department of Justice or any employee of any department or agency of the United States so designated by the Attorney General to carry out the powers conferred on the Attorney General by this chapter. Any department or agency so designated may use in investigations authorized by this chapter either the investigative provisions of this chapter or the investigative power of such department or agency otherwise conferred by law.

-SOURCE-

(Added Pub. L. 91-452, title IX, Sec. 901(a), Oct. 15, 1970, 84 Stat. 941; amended Pub. L. 95-575, Sec. 3(c), Nov. 2, 1978, 92 Stat. 2465; Pub. L. 95-598, title III, Sec. 314(g), Nov. 6, 1978, 92 Stat. 2677; Pub. L. 98-473, title II, Secs. 901(g), 1020, Oct. 12, 1984, 98 Stat. 2136, 2143; Pub. L. 98-547, title II, Sec. 205, Oct. 25, 1984, 98 Stat. 2770; Pub. L. 99-570, title I, Sec.

1365(b), Oct. 27, 1986, 100 Stat. 3207-35; Pub. L. 99-646, Sec. 50(a), Nov. 10, 1986, 100 Stat. 3605; Pub. L. 100-690, title VII, Secs. 7013, 7020(c), 7032, 7054, 7514, Nov. 18, 1988, 102 Stat. 4395, 4396, 4398, 4402, 4489; Pub. L. 101-73, title IX, Sec. 968, Aug. 9, 1989, 103 Stat. 506; Pub. L. 101-647, title XXXV, Sec. 3560, Nov. 29, 1990, 104 Stat. 4927; Pub. L. 103-322, title IX, Sec. 90104, title XVI, Sec. 160001(f), title XXXIII, Sec. 330021(1), Sept. 13, 1994, 108 Stat. 1987, 2037, 2150; Pub. L. 103-394, title III, Sec. 312(b), Oct. 22, 1994, 108 Stat. 4140;

Pub. L. 104-132, title IV, Sec. 433, Apr. 24, 1996, 110 Stat. 1274;

Pub. L. 104-153, Sec. 3, July 2, 1996, 110 Stat. 1386; Pub. L. 104-208, div. C, title II, Sec. 202, Sept. 30, 1996, 110 Stat. 3009-565; Pub. L. 104-294, title VI, Secs. 601(b)(3), (i)(3), 604(b)(6), Oct. 11, 1996, 110 Stat. 3499, 3501, 3506; Pub. L. 107-56, title VIII, Sec. 813, Oct. 26, 2001, 115 Stat. 382; Pub. L. 107-273, div. B, title IV, Sec. 4005(f)(1), Nov. 2, 2002, 116 Stat. 1813; Pub. L. 108-193, Sec. 5(b), Dec. 19, 2003, 117 Stat. 2879.)

-REFTEXT-

REFERENCES IN TEXT

Section 102 of the Controlled Substances Act, referred to in par. (1)(A), (D), is classified to section 802 of Title 21, Food and Drugs.

The Currency and Foreign Transactions Reporting Act, referred to in par. (1)(E), is title II of Pub. L. 91-508, Oct. 26, 1970, 84 Stat. 1118, which was repealed and reenacted as subchapter II of chapter 53 of Title 31, Money and Finance, by Pub. L. 97-258, Sec. 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31.

The Immigration and Nationality Act, referred to in par. (1)(F), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (Sec. 1101 et seq.) of Title 8, Aliens and Nationality. Sections 274, 277, and 278 of the Act

are classified to sections 1324, 1327, and 1328 of Title 8, respectively. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

The effective date of this chapter, referred to in par. (5), is Oct. 15, 1970.

-MISC1-

AMENDMENTS

2003 - Par. (1)(B). Pub. L. 108-193, which directed amendment of par. (1)(A) of this section by substituting "sections 1581-1591 (relating to peonage, slavery, and trafficking in persons)." for "sections 1581-1588 (relating to peonage and slavery)", was executed by making the substitution in par. (1)(B) to reflect the probable intent of Congress.

2002 - Par. (1)(G). Pub. L. 107-273 made technical amendment to directory language of Pub. L. 107-56. See 2001 Amendment note below.

2001 - Par. (1)(G). Pub. L. 107-56, as amended by Pub. L. 107-273, which directed addition of cl. (G) before period at end, was executed by making the addition before the semicolon at end to reflect the probable intent of Congress.

1996 - Par. (1)(B). Pub. L. 104-294, Sec. 604(b)(6), amended directory language of Pub. L. 103-322, Sec. 160001(f). See 1994 Amendment note below.

Pub. L. 104-294, Sec. 601(i)(3), substituted "2260" for "2258".

Pub. L. 104-208 struck out "if the act indictable under section 1028 was committed for the purpose of financial gain" before "

section 1029", inserted "section 1425 (relating to the procurement of citizenship or nationalization unlawfully),

section 1426

(relating to the reproduction of naturalization or citizenship papers),

section 1427 (relating to the sale of naturalization or citizenship papers)," after "section 1344 (relating to financial institution fraud)," struck out "if the act indictable under section 1542 was committed for the purpose of financial gain" before ", section 1543", "if the act indictable under section 1543 was committed for the purpose of financial gain" before ", section 1544", "if the act indictable under section 1544 was committed for the purpose of financial gain" before ", section 1546", and "if the act indictable under section 1546 was committed for the purpose of financial gain" before ", sections 1581-1588".

Pub. L. 104-153 inserted ", section 2318 (relating to trafficking in counterfeit labels for phonorecords, computer programs or computer program documentation or packaging and copies of motion pictures or other audiovisual works),

section 2319 (relating to criminal infringement of a copyright),

section 2319A (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances),

section 2320 (relating to trafficking in goods or services bearing counterfeit marks)" after "sections 2314 and 2315 (relating to interstate transportation of stolen property)".

Pub. L. 104-132, Sec. 433(1), (2), inserted "section 1028 (relating to fraud and related activity in connection with identification documents) if the act indictable under section 1028 was committed for the purpose of financial gain," before "section 1029" and "section 1542 (relating to false statement in application

and use of passport) if the act indictable under section 1542 was committed for the purpose of financial gain, section 1543 (relating to forgery or false use of passport) if the act indictable under section 1543 was committed for the purpose of financial gain, section 1544 (relating to misuse of passport) if the act indictable under section 1544 was committed for the purpose of financial gain, section 1546 (relating to fraud and misuse of visas, permits, and other documents) if the act indictable under section 1546 was committed for the purpose of financial gain, sections 1581-1588 (relating to peonage and slavery)," after "section 1513 (relating to retaliating against a witness, victim, or an informant),".

Par. (1)(D). Pub. L. 104-294, Sec. 601(b)(3), substituted "section 157 of this title" for "section 157 of that title".

Par. (1)(F). Pub. L. 104-132, Sec. 433(3), (4), which directed addition of cl. (F) before period at end, was executed by making the addition before the semicolon at end to reflect the probable intent of Congress.

1994 - Par. (1)(A). Pub. L. 103-322, Sec. 330021(1), substituted "kidnapping" for "kidnaping".

Pub. L. 103-322, Sec. 90104, substituted "a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act)" for "narcotic or other dangerous drugs".

Par. (1)(B). Pub. L. 103-322, Sec. 160001(f), as amended by Pub. L. 104-294, Sec. 604(b)(6), substituted "2251, 2251A, 2252, and 2258" for "2251-2252".

Par. (1)(D). Pub. L. 103-394 inserted "(except a case under section 157 of that title)" after "title 11".

Pub. L. 103-322, Sec. 90104, substituted "a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act)" for "narcotic or other dangerous drugs".

1990 - Par. (1)(B). Pub. L. 101-647 substituted "section 1029 (relating to" for "section 1029 (relative to" and struck out "sections 2251 through 2252 (relating to sexual exploitation of

children)," before ", section 1958".

1989 - Par. (1). Pub. L. 101-73 inserted "section 1344 (relating to financial institution fraud)," after "section 1343 (relating to wire fraud),".

1988 - Par. (1)(B). Pub. L. 100-690, Sec. 7514, inserted "sections 2251 through 2252 (relating to sexual exploitation of children),".

Pub. L. 100-690, Sec. 7054, inserted ", section 1029 (relative to fraud and related activity in connection with access devices)" and ", section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire), sections 2251-2252 (relating to sexual exploitation of children)".

Pub. L. 100-690, Sec. 7032, substituted "section 2321" for "section 2320".

Pub. L. 100-690, Sec. 7013, made technical amendment to directory language of Pub. L. 99-646. See 1986 Amendment note below.

Par. (10). Pub. L. 100-690, Sec. 7020(c), inserted "the Associate Attorney General of the United States," after "Deputy Attorney General of the United States,".

1986 - Par. (1)(B). Pub. L. 99-646, as amended by Pub. L. 100-690, Sec. 7013, inserted "section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant)," after "section 1511 (relating to the obstruction of State or local law enforcement),".

Pub. L. 99-570 inserted "section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity),".

1984 - Par. (1)(A). Pub. L. 98-473, Sec. 1020(1), inserted "dealing in obscene matter," after "extortion,".

Par. (1)(B). Pub. L. 98-547 inserted "sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles)," and "section 2320 (relating to trafficking in certain motor vehicles or motor vehicle parts),".

Pub. L. 98-473, Sec. 1020(2), inserted "sections 1461-1465 (relating to obscene matter),".

Par. (1)(E). Pub. L. 98-473, Sec. 901(g), added cl. (E).

1978 - Par. (1)(B). Pub. L. 95-575 inserted "sections 2341-2346 (relating to trafficking in contraband cigarettes),".

Par. (1)(D). Pub. L. 95-598 substituted "fraud connected with a case under title 11" for "bankruptcy fraud".

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-273, div. B, title IV, Sec. 4005(f)(1), Nov. 2, 2002, 116 Stat. 1813, provided that the amendment made by section 4005(f)(1) is effective Oct. 26, 2001.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 604(b)(6) of Pub. L. 104-294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104-294, set out as a note under section 13 of this title.

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 1978 AMENDMENTS

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

Amendment by Pub. L. 95-575 effective Nov. 2, 1978, see section 4

of Pub. L. 95-575, set out as an Effective Date note under section 2341 of this title.

SHORT TITLE OF 1984 AMENDMENT

Section 301 of chapter III (Secs. 301-322) of title II of Pub. L. 98-473 provided that: "This title [probably means this chapter, enacting sections 1589, 1600, 1613a, and 1616 of Title 19, Customs Duties and sections 853, 854, and 970 of Title 21, Food and Drugs, amending section 1963 of this title and sections 1602, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613, 1614, 1615, 1618, 1619, and 1644 of Title 19, sections 824, 848, and 881 of Title 21, and section 524 of Title 28, Judiciary and Judicial Procedure, and repealing section 7607 of Title 26, Internal Revenue Code] may be cited as the 'Comprehensive Forfeiture Act of 1984'."

SHORT TITLE

Section 1 of Pub. L. 91-452 provided in part: "That this Act [enacting this section, sections 841 to 848, 1511, 1623, 1955, 1962 to 1968, 3331 to 3334, 3503, 3504, 3575 to 3578, and 6001 to 6005 of this title, and section 1826 of Title 28, Judiciary and Judicial Procedure, amending sections 835, 1073, 1505, 1954, 2424, 2516, 2517, 3148, 3486, and 3500 of this title, sections 15, 87f, 135c, 499m, and 2115 of Title 7, Agriculture, section 25 of Title 11, Bankruptcy, section 1820 of Title 12, Banks and Banking, sections 49, 77v, 78u, 79r, 80a-41, 80b-9, 155, 717m, 1271, and 1714 of Title 15, Commerce and Trade, section 825f of Title 16, Conservation, section 1333 of Title 19, Customs Duties, section 373 of Title 21, Food and Drugs, section 161 of Title 29, Labor, section 506 of Title 33, Navigation and Navigable Waters, sections 405 and 2201 of Title 42, The Public Health and Welfare, sections 157 and 362 of Title 45, Railroads, section 1124 of former Title 46, Shipping, section 409 of Title 47, Telegraphs, Telephones, and Radio telegraphs, sections 9, 43, 46, 916, 1017, and 1484 of former Title 49, Transportation, section 792 of Title 50, War and National Defense, and sections 643a, 1152, 2026, and former section 2155 of Title 50, Appendix, repealing sections 837, 895, 1406, and 2514 of this title, sections 32 and 33 of Title 15; sections 4874 and 7493

of Title 26, Internal Revenue Code, section 827 of former Title 46, sections 47 and 48 of former Title 49, and sections 121 to 144 of Title 50, enacting provisions set out as notes under this section and sections 841, 1511, 1955, preceding 3331, preceding 3481, 3504, and 6001 of this title, and repealing provisions set out as a note under section 2510 of this title] may be cited as the 'Organized Crime Control Act of 1970'."

SAVINGS PROVISION

Amendment by section 314 of Pub. L. 95-598 not to affect the application of chapter 9 (Sec. 151 et seq.), chapter 96 (Sec. 1961 et seq.), or section 2516, 3057, or 3284 of this title to any act of any person (1) committed before Oct. 1, 1979, or (2) committed after Oct. 1, 1979, in connection with a case commenced before such date, see section 403(d) of Pub. L. 95-598, set out as a note preceding section 101 of Title 11, Bankruptcy.

SEPARABILITY

Section 1301 of Pub. L. 91-452 provided that: "If the provisions of any part of this Act [see Short Title note set out above] or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby."

CONGRESSIONAL STATEMENT OF FINDINGS AND PURPOSE

Section 1 of Pub. L. 91-452 provided in part that:

"The Congress finds that

- (1) organized crime in the United States is a highly sophisticated, diversified, and widespread activity that annually drains billions of dollars from America's economy by unlawful conduct and the illegal use of force, fraud, and corruption;
- (2) organized crime derives a major portion of its power through money obtained from such illegal endeavors as syndicated gambling, loan sharking, the theft and fencing of property, the importation and distribution of narcotics and other

dangerous drugs, and other forms of social exploitation;

(3) this money and power are increasingly used to infiltrate and corrupt legitimate business and labor unions and to subvert and corrupt our democratic processes;

(4) organized crime activities in the United States weaken the stability of the Nation's economic system, harm innocent investors and competing organizations, interfere with free competition, seriously burden interstate and foreign commerce, threaten the domestic security, and undermine the general welfare of the Nation and its citizens; and

(5) organized crime continues to grow because of defects in the evidence-gathering process of the law inhibiting the development of the legally admissible evidence necessary to bring criminal and other sanctions or remedies to bear on the unlawful activities of those engaged in organized crime and because the sanctions and remedies available to the Government are unnecessarily limited in scope and impact.

"It is the purpose of this Act [see Short Title note above] to seek the eradication of organized crime in the United States by strengthening the legal tools in the evidence-gathering process, by establishing new penal prohibitions, and by providing enhanced sanctions and new remedies to deal with the unlawful activities of those engaged in organized crime."

LIBERAL CONSTRUCTION OF PROVISIONS; SUPERSEDURE OF FEDERAL OR STATE LAWS; AUTHORITY OF ATTORNEYS REPRESENTING UNITED STATES

Section 904 of title IX of Pub. L. 91-452 provided that:

"(a) The provisions of this title [enacting this chapter and amending sections 1505, 2516, and 2517 of this title] shall be liberally construed to effectuate its remedial purposes.

"(b) Nothing in this title shall supersede any provision of Federal, State, or other law imposing criminal penalties or affording civil remedies in addition to those provided for in this title.

"(c) Nothing contained in this title shall impair the authority of any attorney representing the United States to -

"(1) lay before any grand jury impaneled by any district court of the United States any evidence concerning any alleged racketeering violation of law;

"(2) invoke the power of any such court to compel the production of any evidence before any such grand jury; or

"(3) institute any proceeding to enforce any order or process issued in execution of such power or to punish disobedience of any such order or process by any person."

PRESIDENT'S COMMISSION ON ORGANIZED CRIME; TAKING OF TESTIMONY AND RECEIPT OF EVIDENCE

Pub. L. 98-368, July 17, 1984, 98 Stat. 490, provided for the Commission established by Ex. Ord. No. 12435, formerly set out below, authority relating to taking of testimony, receipt of evidence, subpoena power, testimony of persons in custody, immunity, service of process, witness fees, access to other records and information, Federal protection for members and staff, closure of meetings, rules, and procedures, for the period of July 17, 1984, until the earlier of 2 years or the expiration of the Commission.

-EXEC-

EXECUTIVE ORDER NO. 12435

Ex. Ord. No. 12435, July 28, 1983, 48 F.R. 34723, as amended Ex. Ord. No. 12507, Mar. 22, 1985, 50 F.R. 11835, which established and provided for the administration of the President's Commission on

Organized Crime, was revoked by Ex. Ord. No. 12610, Sept. 30, 1987, 52 F.R. 36901, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

-SECRETF-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 924, 1956, 1959 of this title; title 7 section 12a.

-FOOTNOTE-

(!1) So in original.

-End-

-CITE-

18 USC Sec. 1962

01/19/04

-EXPCITE-

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE
PART I - CRIMES
CHAPTER 96 - RACKETEER INFLUENCED AND CORRUPT
ORGANIZATIONS

-HEAD-

Sec. 1962. Prohibited activities

-STATUTE-

(a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, to use or

invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this subsection if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any pattern or racketeering activity or the collection of an unlawful debt after such purchase do not amount in the aggregate to one percent of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

(b) It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.

(c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

(d) It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.

-SOURCE-

(Added Pub. L. 91-452, title IX, Sec. 901(a), Oct. 15, 1970, 84 Stat. 942; amended Pub. L. 100-690, title VII, Sec. 7033, Nov. 18, 1988, 102 Stat. 4398.)

-MISC1-

AMENDMENTS

1988 - Subsec. (d). Pub. L. 100-690 substituted "subsection" for "subsections".

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1963, 1964, 3554 of this title; title 7 section 12a; title 8 section 1101.

-End-

-CITE-

18 USC Sec. 1963

01/19/04

-EXPCITE-

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE
PART I - CRIMES
CHAPTER 96 - RACKETEER INFLUENCED AND CORRUPT
ORGANIZATIONS

-HEAD-

Sec. 1963. Criminal penalties

-STATUTE-

(a) Whoever violates any provision of section 1962 of this chapter shall be fined under this title or imprisoned not more than 20 years (or for life if the violation is based on a racketeering activity for which the maximum penalty includes life imprisonment), or both, and shall forfeit to the United States, irrespective of any provision of State law -

(1) any interest the person has acquired or maintained in violation of section 1962;

(2) any -
(A) interest in;
(B) security of;
(C) claim against; or
(D) property or contractual right of any kind affording a source of influence over;
any enterprise which the person has established, operated, controlled, conducted, or participated in the conduct of, in violation of section 1962; and

(3) any property constituting, or derived from, any proceeds which the person obtained, directly or indirectly, from racketeering activity or unlawful debt collection in violation of section 1962.

The court, in imposing sentence on such person shall order, in addition to any other sentence imposed pursuant to this section, that the person forfeit to the United States all property described in this subsection. In lieu of a fine otherwise authorized by this section, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

(b) Property subject to criminal forfeiture under this section includes -

(1) real property, including things growing on, affixed to, and found in land; and

(2) tangible and intangible personal property, including rights, privileges, interests, claims, and securities.

(c) All right, title, and interest in property described in subsection (a) vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture

and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (l) that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

(d)(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) for forfeiture under this section -

(A) upon the filing of an indictment or information charging a violation of section 1962 of this chapter and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that

-

(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered:

Provided, however, That an order entered pursuant to subparagraph (B) shall be effective for not more than ninety days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

(2) A temporary restraining order under this subsection may be entered upon application of the United States without notice or

opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than ten days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time, and prior to the expiration of the temporary order.

(3) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

(e) Upon conviction of a person under this section, the court shall enter a judgment of forfeiture of the property to the United States and shall also authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following the entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to, or derived from, an enterprise or an interest in an enterprise which has been ordered forfeited under this section may be used to offset ordinary and necessary expenses to the enterprise which are required by law, or which are necessary to protect the interests of the United States or third parties.

(f) Following the seizure of property ordered forfeited under this section, the Attorney General shall direct the disposition of

the property by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with or on behalf of the defendant be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or a person acting in concert with or on behalf of the defendant, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm or loss to him. Notwithstanding 31 U.S.C. 3302(b), the proceeds of any sale or other disposition of property forfeited under this section and any moneys forfeited shall be used to pay all proper expenses for the forfeiture and the sale, including expenses of seizure, maintenance and custody of the property pending its disposition, advertising and court costs. The Attorney General shall deposit in the Treasury any amounts of such proceeds or moneys remaining after the payment of such expenses.

(g) With respect to property ordered forfeited under this section, the Attorney General is authorized to -

(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this chapter;

(2) compromise claims arising under this section;

(3) award compensation to persons providing information resulting in a forfeiture under this section;

(4) direct the disposition by the United States of all property ordered forfeited under this section by public sale or any other

commercially feasible means, making due provision for the rights of innocent persons; and

(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

(h) The Attorney General may promulgate regulations with respect to -

(1) making reasonable efforts to provide notice to persons who may have an interest in property ordered forfeited under this section;

(2) granting petitions for remission or mitigation of forfeiture;

(3) the restitution of property to victims of an offense petitioning for remission or mitigation of forfeiture under this chapter;

(4) the disposition by the United States of forfeited property by public sale or other commercially feasible means;

(5) the maintenance and safekeeping of any property forfeited under this section pending its disposition; and

(6) the compromise of claims arising under this chapter.

Pending the promulgation of such regulations, all provisions of law relating to the disposition of property, or the proceeds from the sale thereof, or the remission or mitigation of forfeitures for violation of the customs laws, and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions hereof. Such duties as are imposed upon the Customs Service or any person with

respect to the disposition of property under the customs law shall be performed under this chapter by the Attorney General.

(i) Except as provided in subsection (l), no party claiming an interest in property subject to forfeiture under this section may -

(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

(j) The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

(k) In order to facilitate the identification or location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under Rule 15 of the Federal Rules of Criminal Procedure.

(l)(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property in such manner as the Attorney General may direct. The Government may also, to the extent

practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

(2) Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the United States pursuant to this section may, within thirty days of the final publication of notice or his receipt of notice under paragraph (1), whichever is earlier, petition the court for a hearing to adjudicate the validity of his alleged interest in the property. The hearing shall be held before the court alone, without a jury.

(3) The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property, any additional facts supporting the petitioner's claim, and the relief sought.

(4) The hearing on the petition shall, to the extent practicable and consistent with the interests of justice, be held within thirty days of the filing of the petition. The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the defendant under this subsection.

(5) At the hearing, the petitioner may testify and present evidence and witnesses on his own behalf, and cross-examine witnesses who appear at the hearing. The United States may present evidence and witnesses in rebuttal and in defense of its claim to the property and cross-examine witnesses who appear at the hearing. In addition to testimony and evidence presented at the hearing, the court shall consider the relevant portions of the record of the criminal case which resulted in the order of forfeiture.

(6) If, after the hearing, the court determines that the

petitioner has established by a preponderance of the evidence that

-

(A) the petitioner has a legal right, title, or interest in the property, and such right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the petitioner rather than the defendant or was superior to any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the property under this section; or

(B) the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section;

the court shall amend the order of forfeiture in accordance with its determination.

(7) Following the court's disposition of all petitions filed under this subsection, or if no such petitions are filed following the expiration of the period provided in paragraph (2) for the filing of such petitions, the United States shall have clear title to property that is the subject of the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.

(m) If any of the property described in subsection (a), as a result of any act or omission of the defendant -

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third party;

(3) has been placed beyond the jurisdiction of the court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be

divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).

-SOURCE-

(Added Pub. L. 91-452, title IX, Sec. 901(a), Oct. 15, 1970, 84 Stat. 943; amended Pub. L. 98-473, title II, Secs. 302, 2301(a)-(c), Oct. 12, 1984, 98 Stat. 2040, 2192; Pub. L. 99-570, title I, Sec. 1153(a), Oct. 27, 1986, 100 Stat. 3207-13; Pub. L. 99-646, Sec. 23, Nov. 10, 1986, 100 Stat. 3597; Pub. L. 100-690, title VII, Secs. 7034, 7058(d), Nov. 18, 1988, 102 Stat. 4398, 4403; Pub. L. 101-647, title XXXV, Sec. 3561, Nov. 29, 1990, 104 Stat. 4927.)

-REFTEXT-

REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in subsec. (d)(3), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

-MISC1-

AMENDMENTS

1990 - Subsec. (a). Pub. L. 101-647 substituted "or both" for "or both." in introductory provisions.

1988 - Subsec. (a). Pub. L. 100-690, Sec. 7058(d), substituted "shall be fined under this title or imprisoned not more than 20 years (or for life if the violation is based on a racketeering activity for which the maximum penalty includes life imprisonment), or both." for "shall be fined not more than \$25,000 or imprisoned not more than twenty years, or both".

Subsecs. (m), (n). Pub. L. 100-690, Sec. 7034, redesignated former subsec. (n) as (m) and substituted "act or omission" for "act of omission".

1986 - Subsecs. (c) to (m). Pub. L. 99-646 substituted "(l)" for "(m)" in subsec. (c), redesignated subsecs. (e) to (m) as (d) to (l), respectively, and substituted "(l)" for "(m)" in subsec. (i) as redesignated.

Subsec. (n). Pub. L. 99-570 added subsec. (n).

1984 - Subsec. (a). Pub. L. 98-473, Sec. 2301(a), inserted "In lieu of a fine otherwise authorized by this section, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds." following par. (3).

Pub. L. 98-473, Sec. 302, amended subsec. (a) generally, designating existing provisions as pars. (1) and (2), inserting par. (3), and provisions following par. (3) relating to power of the court to order forfeiture to the United States.

Subsec. (b). Pub. L. 98-473, Sec. 302, amended subsec. (b) generally, substituting provisions relating to property subject to forfeiture, for provisions relating to jurisdiction of the district courts of the United States.

Subsec. (c). Pub. L. 98-473, Sec. 302, amended subsec. (c) generally, substituting provisions relating to transfer of rights, etc., in property to the United States, or to other transferees, for provisions relating to seizure and transfer of property to the United States and procedures related thereto.

Subsec. (d). Pub. L. 98-473, Sec. 2301(b), struck out subsec. (d) which provided: "If any of the property described in subsection (a): (1) cannot be located; (2) has been transferred to, sold to, or deposited with, a third party; (3) has been placed beyond the jurisdiction of the court; (4) has been substantially diminished in value by any act or omission of the defendant; or (5) has been commingled with other property which cannot be divided without difficulty; the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5)."

Pub. L. 98-473, Sec. 302, added subsec. (d).
Subsecs. (e) to (m). Pub. L. 98-473, Sec. 302, added subsecs. (d)
to (m).
Subsec. (m)(1). Pub. L. 98-473, Sec. 2301(c), struck out "for at
least seven successive court days" after "dispose of the property".

-TRANS-

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of
the United States Customs Service of the Department of the
Treasury, including functions of the Secretary of the Treasury
relating thereto, to the Secretary of Homeland Security, and for
treatment of related references, see sections 203(1), 551(d),
552(d), and 557 of Title 6, Domestic Security, and the Department
of Homeland Security Reorganization Plan of November 25, 2002, as
modified, set out as a note under section 542 of Title 6.

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2516, 3293, 3554 of this
title; title 7 section 12a; title 50 App. section 2410.

-End-

-CITE-

18 USC Sec. 1964

01/19/04

-EXPCITE-

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE
PART I - CRIMES
CHAPTER 96 - RACKETEER INFLUENCED AND CORRUPT
ORGANIZATIONS

-HEAD-

Sec. 1964. Civil remedies

-STATUTE-

(a) The district courts of the United States shall have jurisdiction to prevent and restrain violations of section 1962 of this chapter by issuing appropriate orders, including, but not limited to: ordering any person to divest himself of any interest, direct or indirect, in any enterprise; imposing reasonable restrictions on the future activities or investments of any person, including, but not limited to, prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect interstate or foreign commerce; or ordering dissolution or reorganization of any enterprise, making due provision for the rights of innocent persons.

(b) The Attorney General may institute proceedings under this section. Pending final determination thereof, the court may at any time enter such restraining orders or prohibitions, or take such other actions, including the acceptance of satisfactory performance bonds, as it shall deem proper.

(c) Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee, except that no person may rely upon any conduct that would have been actionable as fraud in the purchase or sale of securities to establish a violation of section 1962. The exception contained in the preceding sentence does not apply to an action against any person that is criminally convicted in connection with the fraud, in which case the statute of limitations shall start to run on the date on which the conviction becomes final.

(d) A final judgment or decree rendered in favor of the United States in any criminal proceeding brought by the United States under this chapter shall estop the defendant from denying the

essential allegations of the criminal offense in any subsequent civil proceeding brought by the United States.

-SOURCE-

(Added Pub. L. 91-452, title IX, Sec. 901(a), Oct. 15, 1970, 84 Stat. 943; amended Pub. L. 98-620, title IV, Sec. 402(24)(A), Nov. 8, 1984, 98 Stat. 3359; Pub. L. 104-67, title I, Sec. 107, Dec. 22, 1995, 109 Stat. 758.)

-MISC1-

AMENDMENTS

1995 - Subsec. (c). Pub. L. 104-67 inserted before period at end ", except that no person may rely upon any conduct that would have been actionable as fraud in the purchase or sale of securities to establish a violation of section 1962. The exception contained in the preceding sentence does not apply to an action against any person that is criminally convicted in connection with the fraud, in which case the statute of limitations shall start to run on the date on which the conviction becomes final".

1984 - Subsec. (b). Pub. L. 98-620 struck out provision that in any action brought by the United States under this section, the court had to proceed as soon as practicable to the hearing and determination thereof.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-67 not to affect or apply to any private action arising under title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or title I of the Securities Act of 1933 (15 U.S.C. 77a et seq.), commenced before and pending on Dec. 22, 1995, see section 108 of Pub. L. 104-67, set out as a note under section 771 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an

Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

CONSTRUCTION OF 1995 AMENDMENT

Nothing in amendment by Pub. L. 104-67 to be deemed to create or ratify any implied right of action, or to prevent Securities and Exchange Commission, by rule or regulation, from restricting or otherwise regulating private actions under Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), see section 203 of Pub. L. 104-67, set out as a Construction note under section 78j-1 of Title 15, Commerce and Trade.

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1965 of this title.

-End-

-CITE-

18 USC Sec. 1965

01/19/04

-EXPCITE-

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE
PART I - CRIMES
CHAPTER 96 - RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

-HEAD-

Sec. 1965. Venue and process

-STATUTE-

(a) Any civil action or proceeding under this chapter against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an

agent, or transacts his affairs.

(b) In any action under section 1964 of this chapter in any district court of the United States in which it is shown that the ends of justice require that other parties residing in any other district be brought before the court, the court may cause such parties to be summoned, and process for that purpose may be served in any judicial district of the United States by the marshal thereof.

(c) In any civil or criminal action or proceeding instituted by the United States under this chapter in the district court of the United States for any judicial district, subpoenas issued by such court to compel the attendance of witnesses may be served in any other judicial district, except that in any civil action or proceeding no such subpoena shall be issued for service upon any individual who resides in another district at a place more than one hundred miles from the place at which such court is held without approval given by a judge of such court upon a showing of good cause.

(d) All other process in any action or proceeding under this chapter may be served on any person in any judicial district in which such person resides, is found, has an agent, or transacts his affairs.

-SOURCE-

(Added Pub. L. 91-452, title IX, Sec. 901(a), Oct. 15, 1970, 84 Stat. 944.)

-End-

-CITE-

18 USC Sec. 1966

01/19/04

-EXPCITE-

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE
PART I - CRIMES
CHAPTER 96 - RACKETEER INFLUENCED AND CORRUPT
ORGANIZATIONS

-HEAD-

Sec. 1966. Expedition of actions

-STATUTE-

In any civil action instituted under this chapter by the United States in any district court of the United States, the Attorney General may file with the clerk of such court a certificate stating that in his opinion the case is of general public importance. A copy of that certificate shall be furnished immediately by such clerk to the chief judge or in his absence to the presiding district judge of the district in which such action is pending. Upon receipt of such copy, such judge shall designate immediately a judge of that district to hear and determine action.

-SOURCE-

(Added Pub. L. 91-452, title IX, Sec. 901(a), Oct. 15, 1970, 84 Stat. 944; amended Pub. L. 98-620, title IV, Sec. 402(24)(B), Nov. 8, 1984, 98 Stat. 3359.)

-MISC1-

AMENDMENTS

1984 - Pub. L. 98-620 struck out provision that the judge so designated had to assign such action for hearing as soon as practicable, participate in the hearings and determination thereof, and cause such action to be expedited in every way.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an

Effective Date note under section 1657 of Title 28, Judiciary and
Judicial Procedure.

-End-

-CITE-

18 USC Sec. 1967

01/19/04

-EXPCITE-

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE
PART I - CRIMES
CHAPTER 96 - RACKETEER INFLUENCED AND CORRUPT
ORGANIZATIONS

-HEAD-

Sec. 1967. Evidence

-STATUTE-

In any proceeding ancillary to or in any civil action instituted
by the United States under this chapter the proceedings may be open
or closed to the public at the discretion of the court after
consideration of the rights of affected persons.

-SOURCE-

(Added Pub. L. 91-452, title IX, Sec. 901(a), Oct. 15, 1970, 84
Stat. 944.)

-End-

-CITE-

18 USC Sec. 1968

01/19/04

-EXPCITE-

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE
PART I - CRIMES
CHAPTER 96 - RACKETEER INFLUENCED AND CORRUPT
ORGANIZATIONS

-HEAD-

Sec. 1968. Civil investigative demand

-STATUTE-

(a) Whenever the Attorney General has reason to believe that any person or enterprise may be in possession, custody, or control of any documentary materials relevant to a racketeering investigation, he may, prior to the institution of a civil or criminal proceeding thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such material for examination.

(b) Each such demand shall -

(1) state the nature of the conduct constituting the alleged racketeering violation which is under investigation and the provision of law applicable thereto;

(2) describe the class or classes of documentary material produced thereunder with such definiteness and certainty as to permit such material to be fairly identified;

(3) state that the demand is returnable forthwith or prescribe a return date which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

(4) identify the custodian to whom such material shall be made available.

(c) No such demand shall -

(1) contain any requirement which would be held to be unreasonable if contained in a subpoena duces tecum issued by a court of the United States in aid of a grand jury investigation of such alleged racketeering violation; or

(2) require the production of any documentary evidence which would be privileged from disclosure if demanded by a subpoena duces tecum issued by a court of the United States in aid of a grand jury investigation of such alleged racketeering violation.

(d) Service of any such demand or any petition filed under this section may be made upon a person by -

(1) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such person, or upon any individual person;

(2) delivering a duly executed copy thereof to the principal office or place of business of the person to be served; or

(3) depositing such copy in the United States mail, by registered or certified mail duly addressed to such person at its principal office or place of business.

(e) A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be prima facie proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

(f)(1) The Attorney General shall designate a racketeering investigator to serve as racketeer document custodian, and such additional racketeering investigators as he shall determine from time to time to be necessary to serve as deputies to such officer.

(2) Any person upon whom any demand issued under this section has

been duly served shall make such material available for inspection and copying or reproduction to the custodian designated therein at the principal place of business of such person, or at such other place as such custodian and such person thereafter may agree and prescribe in writing or as the court may direct, pursuant to this section on the return date specified in such demand, or on such later date as such custodian may prescribe in writing. Such person may upon written agreement between such person and the custodian substitute for copies of all or any part of such material originals thereof.

(3) The custodian to whom any documentary material is so delivered shall take physical possession thereof, and shall be responsible for the use made thereof and for the return thereof pursuant to this chapter. The custodian may cause the preparation of such copies of such documentary material as may be required for official use under regulations which shall be promulgated by the Attorney General. While in the possession of the custodian, no material so produced shall be available for examination, without the consent of the person who produced such material, by any individual other than the Attorney General. Under such reasonable terms and conditions as the Attorney General shall prescribe, documentary material while in the possession of the custodian shall be available for examination by the person who produced such material or any duly authorized representatives of such person.

(4) Whenever any attorney has been designated to appear on behalf of the United States before any court or grand jury in any case or proceeding involving any alleged violation of this chapter, the custodian may deliver to such attorney such documentary material in the possession of the custodian as such attorney determines to be required for use in the presentation of such case or proceeding on behalf of the United States. Upon the conclusion of any such case or proceeding, such attorney shall return to the custodian any documentary material so withdrawn which has not passed into the control of such court or grand jury through the introduction thereof into the record of such case or proceeding.

(5) Upon the completion of -

(i) the racketeering investigation for which any documentary material was produced under this chapter, and

(ii) any case or proceeding arising from such investigation, the custodian shall return to the person who produced such material all such material other than copies thereof made by the Attorney General pursuant to this subsection which has not passed into the control of any court or grand jury through the introduction thereof into the record of such case or proceeding.

(6) When any documentary material has been produced by any person under this section for use in any racketeering investigation, and no such case or proceeding arising therefrom has been instituted within a reasonable time after completion of the examination and analysis of all evidence assembled in the course of such investigation, such person shall be entitled, upon written demand made upon the Attorney General, to the return of all documentary material other than copies thereof made pursuant to this subsection so produced by such person.

(7) In the event of the death, disability, or separation from service of the custodian of any documentary material produced under any demand issued under this section or the official relief of such custodian from responsibility for the custody and control of such material, the Attorney General shall promptly -

(i) designate another racketeering investigator to serve as custodian thereof, and

(ii) transmit notice in writing to the person who produced such material as to the identity and address of the successor so designated.

Any successor so designated shall have with regard to such materials all duties and responsibilities imposed by this section upon his predecessor in office with regard thereto, except that he

shall not be held responsible for any default or dereliction which occurred before his designation as custodian.

(g) Whenever any person fails to comply with any civil investigative demand duly served upon him under this section or whenever satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the Attorney General may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this section, except that if such person transacts business in more than one such district such petition shall be filed in the district in which such person maintains his principal place of business, or in such other district in which such person transacts business as may be agreed upon by the parties to such petition.

(h) Within twenty days after the service of any such demand upon any person, or at any time before the return date specified in the demand, whichever period is shorter, such person may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon such custodian a petition for an order of such court modifying or setting aside such demand. The time allowed for compliance with the demand in whole or in part as deemed proper and ordered by the court shall not run during the pendency of such petition in the court. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of such person.

(i) At any time during which any custodian is in custody or control of any documentary material delivered by any person in compliance with any such demand, such person may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve

upon such custodian a petition for an order of such court requiring the performance by such custodian of any duty imposed upon him by this section.

(j) Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section.

-SOURCE-

(Added Pub. L. 91-452, title IX, Sec. 901(a), Oct. 15, 1970, 84 Stat. 944.)

-SECRETF-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1833a.

-End-

<http://uscode.house.gov/download/pls/18C203.txt>

-CITE-

18 USC Sec. 3057

01/19/04

-EXPCITE-

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE
PART II - CRIMINAL PROCEDURE
CHAPTER 203 - ARREST AND COMMITMENT

-HEAD-

Sec. 3057. Bankruptcy investigations

-STATUTE-

(a) Any judge, receiver, or trustee having reasonable grounds for believing that any violation under chapter 9 of this title or other laws of the United States relating to insolvent debtors, receiverships or reorganization plans has been committed, or that an investigation should be had in connection therewith, shall report to the appropriate United States attorney all the facts and circumstances of the case, the names of the witnesses and the offense or offenses believed to have been committed. Where one of such officers has made such report, the others need not do so.

(b) The United States attorney thereupon shall inquire into the facts and report thereon to the judge, and if it appears probable that any such offense has been committed, shall without delay, present the matter to the grand jury, unless upon inquiry and examination he decides that the ends of public justice do not require investigation or prosecution, in which case he shall report the facts to the Attorney General for his direction.

-SOURCE-

(June 25, 1948, ch. 645, 62 Stat. 818; May 24, 1949, ch. 139, Sec. 48, 63 Stat. 96; Pub. L. 95-598, title III, Sec. 314(i), Nov. 6,

1978, 92 Stat. 2677.)

-MISC1-

HISTORICAL AND REVISION NOTES

1948 ACT

Based on section 52(e)(1), (2) of title 11, U.S.C., 1940 ed., Bankruptcy (July 1, 1898, ch. 541, Sec. 29e(1), (2), as added by May 27, 1926, ch. 406, Sec. 11, 44 Stat. 665, 666; June 22, 1938, ch. 575, Sec. 1, 52 Stat. 840, 856).

Remaining provisions of section 52 of title 11, U.S.C., 1940 ed., Bankruptcy, constitute sections 151-154, and 3284 of this title.

The words "or laws relating to insolvent debtors, receiverships, or reorganization plans" were inserted to avoid reference to "Title 11".

Minor changes were made in phraseology.

1949 ACT

This section [section 48] clarifies the meaning of section 3057 of title 18, U.S.C., by expressly limiting to laws "of the United States", violations of laws which are to be reported to the United States attorney.

AMENDMENTS

1978 - Subsec. (a). Pub. L. 95-598, Sec. 314(i), substituted "judge" for "referee" and "violation under chapter 9 of this title" for "violations of the bankruptcy laws".

Subsec. (b). Pub. L. 95-598, Sec. 314(i)(1), substituted "judge" for "referee".

1949 - Subsec. (a). Act May 24, 1949, substituted "or other laws of the United States" for "or laws".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

SAVINGS PROVISION

Amendment by Pub. L. 95-598 not to affect the application of chapter 9 (Sec. 151 et seq.), chapter 96 (Sec. 1961 et seq.), or section 2516, 3057, or 3284 of this title to any act of any person (1) committed before Oct. 1, 1979, or (2) committed after Oct. 1, 1979, in connection with a case commenced before such date, see section 403(d) of Pub. L. 95-598, set out as a note preceding section 101 of Title 11, Bankruptcy.

-TRANS-

TRANSFER OF FUNCTIONS

Functions of all other officers of Department of Justice and functions of all agencies and employees of such Department, with a few exceptions, transferred to Attorney General, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 2 of 1950, Secs. 1, 2, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, set out in the Appendix to Title 5, Government Organization and Employees.

-End-

<http://uscode.house.gov/download/pls/18C213.txt>

-CITE-

18 USC Sec. 3284

01/19/04

-EXPCITE-

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE
PART II - CRIMINAL PROCEDURE
CHAPTER 213 - LIMITATIONS

-HEAD-

Sec. 3284. Concealment of bankrupt's assets

-STATUTE-

The concealment of assets of a debtor in a case under title 11 shall be deemed to be a continuing offense until the debtor shall have been finally discharged or a discharge denied, and the period of limitations shall not begin to run until such final discharge or denial of discharge.

-SOURCE-

(June 25, 1948, ch. 645, 62 Stat. 828; Pub. L. 95-598, title III, Sec. 314(k), Nov. 6, 1978, 92 Stat. 2678.)

-MISC1-

HISTORICAL AND REVISION NOTES

Based on section 52(d) of title 11, U.S.C., 1940 ed., Bankruptcy (May 27, 1926, ch. 406, Sec. 11d, 44 Stat. 665; June 22, 1938, ch. 575, Sec. 1, 52 Stat. 856).

The 3-year-limitation provision was omitted as unnecessary in view of the general statute, section 3282 of this title.

The words "or a discharge denied" and "or denial of discharge" were added on the recommendation of the Department of Justice to supply an omission in existing law.

Other subsections of said section 52 of title 11, U.S.C., 1940 ed., are incorporated in sections 151-154 and 3057 of this title. Other minor changes of phraseology were made.

AMENDMENTS

1978 - Pub. L. 95-598 substituted "debtor in a case under title 11" for "bankrupt or other debtor".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

SAVINGS PROVISION

Amendment by section 314 of Pub. L. 95-598 not to affect the application of chapter 9 (Sec. 151 et seq.), chapter 96 (Sec. 1961 et seq.), or section 2516, 3057, or 3284 of this title to any act of any person (1) committed before Oct. 1, 1979, or (2) committed after Oct. 1, 1979, in connection with a case commenced before such date, see section 403(d) of Pub. L. 95-598, set out as a note preceding section 101 of Title 11, Bankruptcy.

-End-

-CITE-

18 USC Sec. 3571

01/22/02

-EXPCITE-

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE
PART II - CRIMINAL PROCEDURE
CHAPTER 227 - SENTENCES
SUBCHAPTER C - FINES

-HEAD-

Sec. 3571. Sentence of fine

-STATUTE-

(a) In General. - A defendant who has been found guilty of an offense may be sentenced to pay a fine.

(b) Fines for Individuals. - Except as provided in subsection (e) of this section, an individual who has been found guilty of an offense may be fined not more than the greatest of -

- (1) the amount specified in the law setting forth the offense;
- (2) the applicable amount under subsection (d) of this section;
- (3) for a felony, not more than \$250,000;
- (4) for a misdemeanor resulting in death, not more than \$250,000;
- (5) for a Class A misdemeanor that does not result in death, not more than \$100,000;
- (6) for a Class B or C misdemeanor that does not result in death, not more than \$5,000; or
- (7) for an infraction, not more than \$5,000.

(c) Fines for Organizations. - Except as provided in subsection (e) of this section, an organization that has been found guilty of an offense may be fined not more than the greatest of -

- (1) the amount specified in the law setting forth the offense;
- (2) the applicable amount under subsection (d) of this section;
- (3) for a felony, not more than \$500,000;
- (4) for a misdemeanor resulting in death, not more than \$500,000;
- (5) for a Class A misdemeanor that does not result in death, not more than \$200,000;
- (6) for a Class B or C misdemeanor that does not result in death, not more than \$10,000; and
- (7) for an infraction, not more than \$10,000.

(d) Alternative Fine Based on Gain or Loss. - If any person derives pecuniary gain from the offense, or if the offense results in pecuniary loss to a person other than the defendant, the defendant may be fined not more than the greater of twice the gross gain or twice the gross loss, unless imposition of a fine under

this subsection would unduly complicate or prolong the sentencing process.

(e) Special Rule for Lower Fine Specified in Substantive Provision. - If a law setting forth an offense specifies no fine or a fine that is lower than the fine otherwise applicable under this section and such law, by specific reference, exempts the offense from the applicability of the fine otherwise applicable under this section, the defendant may not be fined more than the amount specified in the law setting forth the offense.

-SOURCE-

(Added Pub. L. 98-473, title II, Sec. 212(a)(2), Oct. 12, 1984, 98 Stat. 1995; amended Pub. L. 100-185, Sec. 6, Dec. 11, 1987, 101 Stat. 1280.)

-MISC1-

PRIOR PROVISIONS

For a prior section 3571, applicable to offenses committed prior to Nov. 1, 1987, see note set out preceding section 3551 of this title.

AMENDMENTS

1987 - Pub. L. 100-185 amended section generally, revising and restating as subsecs. (a) to (e) provisions formerly contained in subsecs. (a) and (b).

EFFECTIVE DATE

Section effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of this section, see section 235(a)(1) of Pub. L. 98-473, set out as a note under section 3551 of this title.

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3, 19, 248, 373, 1031 of this title; title 15 section 6823; title 20 sections 9007, 9010; title 28 section 636; title 31 section 5324; title 42 sections 2273, 7412; title 49 section 11908.

<http://uscode.house.gov/download/pls/28C6.txt>

-CITE-

28 USC CHAPTER 6 - BANKRUPTCY JUDGES

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
28 U.S.C., JUDICIARY AND JUDICIAL PROCEDURE

§§151-158

§753

PART I - ORGANIZATION OF COURTS
CHAPTER 6 - BANKRUPTCY JUDGES

-HEAD-

CHAPTER 6 - BANKRUPTCY JUDGES

-MISC1-

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.

158. Appeals [as amended by BAPCPA of 2005]

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 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.

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.

-SECRETF-

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 375 of this title; title 11 section 105; title 18 section 6001.

-FOOTNOTE-

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

-End-

-CITE-

28 USC Sec. 151

01/19/04

-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-

(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, 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-

-CITE-

28 USC Sec. 152

01/19/04

-EXPCITE-

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 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	

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
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 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 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 "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.

"(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."

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.

"(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."

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 354, 372, 377 of this title; title 5 section 8331.

-End-

-CITE-

28 USC Sec. 153

01/19/04

-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

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."

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, 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-

-CITE-

-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-

-EXPCITE-

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

-HEAD-

Sec. 155. Temporary transfer of bankruptcy judges

-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."

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 374, 375, 376, 377 of this title.

-End-

-CITE-

28 USC Sec. 156

01/19/04

-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 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.

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1930 of this title.

-End-

-CITE-

28 USC Sec. 157

01/19/04

-EXPCITE-

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

-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;¹

(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; and

¹ BAPCPA: PUBLIC LAW 109-8—APR. 20, 2005 119 STAT. 145

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) in subparagraph (N), by striking “and” at the end;

(B) in subparagraph (O), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.”.

.....“(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.”.

(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. 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.

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 158 of this title; title 11 section 524.

-End-

-CITE-

28 USC Sec. 158

01/19/04

-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;

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 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 "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.

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 157, 1334, 1452 of this title; title 11 section 305.

-FOOTNOTE-

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

-End-

[BAPCPA: 119 STAT. 202 PUBLIC LAW 109-8 – APR. 20, 2005

SEC. 1233. DIRECT APPEALS OF BANKRUPTCY MATTERS TO COURTS OF APPEALS.

(a) APPEALS. – Section 158 of title 28, United States Code, is amended –

- (1) in subsection (c)(1), by striking “Subject to subsection (b),” and inserting “Subject to subsections (b) and (d)(2),”; and
- (2) in subsection (d) –
 - (A) by inserting “(1)” after “(d)”; and
 - (B) by adding at the end the following:

“(2)(A) The appropriate court of appeals shall have jurisdiction of appeals described in the first sentence of subsection (a) if the bankruptcy court, the district court, or the bankruptcy appellate panel involved, acting on its own motion or on the request of a party to the judgment, order, or decree described in such first sentence, or all the appellants and appellees (if any) acting jointly, certify that –

“(i) the judgment, order, or decree involves a question of law as to which there is no controlling decision of the court of appeals for the circuit or of the Supreme Court of the United States, or involves a matter of public importance;

“(ii) the judgment, order, or decree involves a question of law requiring resolution of conflicting decisions; or

“(iii) an immediate appeal from the judgment, order, or decree may materially advance the progress of the case or proceeding in which the appeal is taken;

and if the court of appeals authorizes the direct appeal of the judgment, order, or decree.

“(B) If the bankruptcy court, the district court, or the bankruptcy appellate panel –

“(i) on its own motion or on the request of a party, determines that a circumstance specified in clause (i), (ii), or (iii) of subparagraph (A) exists; or

“(ii) receives a request made by a majority of the appellants and a majority of appellees (if any) to make the certification described in subparagraph (A); then the bankruptcy court, the district court, or the bankruptcy appellate panel shall make the certification described in subparagraph (A).

“(C) The parties may supplement the certification with a short statement of the basis for the certification.

“(D) An appeal under this paragraph does not stay any proceeding of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken, unless the respective bankruptcy court, district court, or bankruptcy appellate panel, or the court of appeals in which the appeal is pending, issues a stay of such proceeding pending the appeal.

“(E) Any request under subparagraph (B) for certification shall be made not later than 60 days after the entry of the judgment, order, or decree.”.

(b) PROCEDURAL RULES. –

(1) TEMPORARY APPLICATION. – A provision of this subsection shall apply to appeals under section 158(d)(2) of title 28, United States Code, until a rule of practice and procedure relating to such provision and such appeals is promulgated or amended under chapter 131 of such title.

(2) CERTIFICATION. – A district court, a bankruptcy court, or a bankruptcy appellate panel may make a certification under section 158(d)(2) of title 28, United States Code, only with respect to matters pending in the respective bankruptcy court, district court, or bankruptcy appellate panel.

(3) PROCEDURE. – Subject to any other provision of this subsection, an appeal authorized by the court of appeals under section 158(d)(2)(A) of title 28, United States Code, shall be taken in the manner prescribed in subdivisions (a)(1), (b), (c), and (d) of rule 5 of the Federal Rules of Appellate Procedure. For purposes of subdivision (a)(1) of rule 5 –

(A) a reference in such subdivision to a district court shall be deemed to include a reference to a bankruptcy court and a bankruptcy appellate panel, as appropriate; and

(B) a reference in such subdivision to the parties requesting permission to appeal to be served with the petition shall be deemed to include a reference to the parties to the judgment, order, or decree from which the appeal is taken.

(4) FILING OF PETITION WITH ATTACHMENT. – A petition requesting permission to appeal, that is based on a certification made under subparagraph (A) or (B) of section 158(d)(2) shall –
(A) be filed with the circuit clerk not later than 10 days after the certification is entered on the docket of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken; and

(B) have attached a copy of such certification.

(5) REFERENCES IN RULE 5. – For purposes of rule 5 of the Federal Rules of Appellate Procedure –

(A) a reference in such rule to a district court shall

be deemed to include a reference to a bankruptcy court and to a bankruptcy appellate panel; and

(B) a reference in such rule to a district clerk shall be deemed to include a reference to a clerk of a bankruptcy court and to a clerk of a bankruptcy appellate panel.

(6) APPLICATION OF RULES. – The Federal Rules of Appellate Procedure shall apply in the courts of appeals with respect to appeals authorized under section 158(d)(2)(A), to the extent relevant and as if such appeals were taken from final judgments, orders, or decrees of the district courts or bankruptcy appellate panels exercising appellate jurisdiction under subsection (a) or (b) of section 158 of title 28, United States Code.

(As amended April 20, 2005, P.L. 109-8, Title XII, § 1233(a), 119 Stat. 202.)

-CITE-

28 USC Sec. 331

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 15 - CONFERENCES AND COUNCILS OF JUDGES

-HEAD-

Sec. 331. Judicial Conference of the United States

-STATUTE-

The Chief Justice of the United States shall summon annually the chief judge of each judicial circuit, the chief judge of the Court of International Trade, and a district judge from each judicial circuit to a conference at such time and place in the United States as he may designate. He shall preside at such conference which shall be known as the Judicial Conference of the United States. Special sessions of the Conference may be called by the Chief Justice at such times and places as he may designate.

The district judge to be summoned from each judicial circuit shall be chosen by the circuit and district judges of the circuit and shall serve as a member of the Judicial Conference of the United States for a term of not less than 3 successive years nor more than 5 successive years, as established by majority vote of all circuit and district judges of the circuit. A district judge serving as a member of the Judicial Conference may be either a judge in regular active service or a judge retired from regular active service under section 371(b) of this title.

If the chief judge of any circuit, the chief judge of the Court of International Trade, or the district judge chosen by the judges of the circuit is unable to attend, the Chief Justice may summon any other circuit or district judge from such circuit or any other judge of the Court of International Trade, as the case may be. Every judge summoned shall attend and, unless excused by the Chief Justice, shall remain throughout the sessions of the conference and advise as to the needs of his circuit or court and as to any

matters in respect of which the administration of justice in the courts of the United States may be improved.

The Conference shall make a comprehensive survey of the condition of business in the courts of the United States and prepare plans for assignment of judges to or from circuits or districts where necessary. It shall also submit suggestions and recommendations to the various courts to promote uniformity of management procedures and the expeditious conduct of court business. The Conference is authorized to exercise the authority provided in chapter 16 of this title as the Conference, or through a standing committee. If the Conference elects to establish a standing committee, it shall be appointed by the Chief Justice and all petitions for review shall be reviewed by that committee. The Conference or the standing committee may hold hearings, take sworn testimony, issue subpoenas and subpoenas duces tecum, and make necessary and appropriate orders in the exercise of its authority. Subpoenas and subpoenas duces tecum shall be issued by the clerk of the Supreme Court or by the clerk of any court of appeals, at the direction of the Chief Justice or his designee and under the seal of the court, and shall be served in the manner provided in rule 45(c) of the Federal Rules of Civil Procedure for subpoenas and subpoenas duces tecum issued on behalf of the United States or an officer or any agency thereof. The Conference may also prescribe and modify rules for the exercise of the authority provided in chapter 16 of this title. All judicial officers and employees of the United States shall promptly carry into effect all orders of the Judicial Conference or the standing committee established pursuant to this section.

The Conference shall also carry on a continuous study of the operation and effect of the general rules of practice and procedure now or hereafter in use as prescribed by the Supreme Court for the other courts of the United States pursuant to law. Such changes in and additions to those rules as the Conference may deem desirable to promote simplicity in procedure, fairness in administration, the just determination of litigation, and the elimination of unjustifiable expense and delay shall be recommended by the Conference from time to time to the Supreme Court for its consideration and adoption, modification or rejection, in

accordance with law.

The Judicial Conference shall review rules prescribed under section 2071 of this title by the courts, other than the Supreme Court and the district courts, for consistency with Federal law. The Judicial Conference may modify or abrogate any such rule so reviewed found inconsistent in the course of such a review.

The Attorney General shall, upon request of the Chief Justice, report to such Conference on matters relating to the business of the several courts of the United States, with particular reference to cases to which the United States is a party.

The Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation.

-SOURCE-

(June 25, 1948, ch. 646, 62 Stat. 902; July 9, 1956, ch. 517, Sec. 1(d), 70 Stat. 497; Pub. L. 85-202, Aug. 28, 1957, 71 Stat. 476; Pub. L. 85-513, July 11, 1958, 72 Stat. 356; Pub. L. 87-253, Secs. 1, 2, Sept. 19, 1961, 75 Stat. 521; Pub. L. 95-598, title II, Sec. 208, Nov. 6, 1978, 92 Stat. 2660; Pub. L. 96-458, Sec. 4, Oct. 15, 1980, 94 Stat. 2040; Pub. L. 97-164, title I, Sec. 111, Apr. 2, 1982, 96 Stat. 29; Pub. L. 99-466, Sec. 1, Oct. 14, 1986, 100 Stat. 1190; Pub. L. 100-702, title IV, Sec. 402(b), Nov. 19, 1988, 102 Stat. 4650; Pub. L. 104-317, title VI, Sec. 601(a), Oct. 19, 1996, 110 Stat. 3857; Pub. L. 107-273, div. C, title I, Sec. 11043(b), Nov. 2, 2002, 116 Stat. 1855.)

-MISC1-

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., Sec. 218 (Sept. 14, 1922, ch. 306, Sec. 2, 42 Stat. 838; July 5, 1937, ch. 427, 50 Stat. 473).

Provisions as to associate justice acting when Chief Justice is disabled are omitted as unnecessary in view of section 3 of this title giving senior associate justice power to act upon the disability of the Chief Justice.

The provision of section 218 of title 28, U.S.C., 1940 ed., as to traveling expenses is incorporated in section 456 of this title.

Provision as to time and place for holding conference was omitted as unnecessary since the Chief Justice is vested with discretionary power to designate the time and place under the language retained.

The references to "chief judge" are in harmony with other sections of this title. (See Reviser's Note under section 136 of this title.)

Provision for stated annual reports by the chief judge of the district was omitted as obsolete and unnecessary in view of sections 332 and 333 of this title.

The last paragraph is new and is inserted to authorize the communication to Congress of information which now reaches that body only because incorporated in the annual report of the Attorney General.

Numerous changes were made in phraseology and arrangement.

-REFTEXT-

REFERENCES IN TEXT

Rule 45(c) of the Federal Rules of Civil Procedure, referred to in fourth paragraph, is set out in the Appendix to this title.

-MISC2-

AMENDMENTS

2002 - Pub. L. 107-273 substituted "chapter 16" for "section 372(c)" in two places in fourth par.

1996 - Pub. L. 104-317 added second par. and struck out former second par. which read as follows: "The district judge to be summoned from each judicial circuit shall be chosen by the circuit and district judges of the circuit at the annual judicial conference of the circuit held pursuant to section 333 of this title and shall serve as a member of the conference for three successive years, except that in the year following the enactment of this amended section the judges in the first, fourth, seventh, and tenth circuits shall choose a district judge to serve for one year, the judges in the second, fifth, and eighth circuits shall

choose a district judge to serve for two years and the judges in the third, sixth, ninth, and District of Columbia circuits shall choose a district judge to serve for three years."

1988 - Pub. L. 100-702 inserted paragraph requiring Judicial Conference review of section 2071 rules prescribed by courts other than Supreme court or district courts for consistency with Federal law.

1986 - Pub. L. 99-466, Sec. 1(a), inserted ", the chief judge of the Court of International Trade," and substituted "Conference may" for "conference may" in first par.

Pub. L. 99-466, Sec. 1(b), inserted ", the chief judge of the Court of International Trade," and "or any other judge of the Court of International Trade, as the case may be" in first sentence of third par.

Pub. L. 99-466, Sec. 1(c), substituted "Conference" for "conference" in sixth par.

1982 - Pub. L. 97-164, in first par., struck out references to the chief judge of the Court of Claims and to the chief judge of the Court of Customs and Patent Appeals in the enumeration of judges which the Chief Justice must summon each year for a conference and, in third par., struck out provision that authorized the Chief Justice to summon an associate judge of the Court of Claims or the Court of Customs and Patent Appeals if the chief judge of either of those courts could not attend.

1980 - Pub. L. 96-458, in fourth par., substituted "It shall also submit suggestions and recommendations to the various courts to promote uniformity of management procedures and the expeditious conduct of court business." for "and shall submit suggestions to the various courts, in the interest of uniformity and expedition of business.", and inserted provisions relating to exercise of authority under section 372(c) as the Conference or through standing committee, the holding of hearings, taking of testimony, and the issuance of subpoenas pursuant to rule 45(c) of the Federal Rules of Civil Procedure.

1978 - Pub. L. 95-598 directed the amendment of section by inserting references to 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.

1961 - Pub. L. 87-253 provided for the summoning to the judicial conference of the chief judge of the Court of Customs and Patent Appeals, and if he is unable to attend, for the summoning of an associate judge of such court.

1958 - Pub. L. 85-513 inserted paragraph requiring a continuous study of the operation and effect of the general rules of practice and procedure.

1957 - Pub. L. 85-202 provided generally in first three paragraphs for the representation of district judges on the Judicial Conference.

1956 - Act July 9, 1956, inserted provisions relating to participation of Court of Claims judges.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-702 effective Dec. 1, 1988, see section 407 of Pub. L. 100-702, set out as a note under section 2071 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 4 of Pub. L. 99-466 provided that: "This Act and the amendments made by this Act [enacting section 335 of this title, amending this section and section 569 of this title, renumbering section 873 of this title as 872, and repealing former section 872 of this title] shall take effect 60 days after the date of the enactment of this Act [Oct. 14, 1986]."

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

Section 7 of Pub. L. 96-458 provided that: "This Act [amending this section and sections 332, 372, and 604 of this title and enacting provisions set out as notes under this section and section

1 of this title] shall become effective on October 1, 1981."

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in this section relating to requirement that the Chief Justice submit to Congress an annual report of proceedings of the Judicial Conference and recommendations for legislation, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 13 of House Document No. 103-7.

POLICIES, PROCEDURES, AND METHODOLOGIES USED IN RECOMMENDATION FOR CREATION OF ADDITIONAL FEDERAL JUDGESHIPS; STUDY BY GENERAL ACCOUNTING OFFICE AND REPORT TO CONGRESS

Pub. L. 101-650, title II, Sec. 205, Dec. 1, 1990, 104 Stat.
5103, provided that:

"(a) In General. - The Comptroller General of the United States shall review the policies, procedures, and methodologies used by the Judicial Conference of the United States in recommending to the Congress the creation of additional Federal judgeships. In conducting such review the Comptroller General shall, at a minimum, determine the extent to which such policies, procedures, and methodologies -

"(1) provide an accurate measure of the workload of existing judges;

"(2) are applied consistently to the various circuit courts of appeals and district courts; and

"(3) provide an accurate indicator of the need for additional judgeships.

"(b) Report to Congress. - The Comptroller General shall, not later than 18 months after the date of the enactment of this Act [Dec. 1, 1990], report the results of the review conducted under subsection (a) to the Committees on the Judiciary of the House of Representatives and the Senate. The report shall include such recommendations as the Comptroller General considers appropriate for revisions of the policies, procedures, and methodologies used

by the Judicial Conference that were reviewed in the report."

FEDERAL COURTS STUDY COMMITTEE

Title I of Pub. L. 100-702, known as the "Federal Courts Study Act", established within the Judicial Conference of the United States, a Federal Courts Study Committee on the future of the Federal Judiciary, which was directed to examine problems and issues currently facing the courts of the United States, develop a long-range plan for the future of the Federal Judiciary, including assessments involving alternative methods of dispute resolution, the structure and administration of the Federal court system, methods of resolving intracircuit and intercircuit conflicts in the courts of appeals, and the types of disputes resolved by the Federal courts, and to submit, within 15 months after Jan. 1, 1989, a report to the Judicial Conference of the United States, the President, the Congress, the Conference of Chief Justices, and the State Justice Institute on the revisions, if any, in the laws of the United States which the Committee, based on its study and evaluation, deemed advisable, and further provided for membership of the Committee, duties, powers and functions, compensation of members, appropriations, and expiration of the Committee 60 days after submission of report.

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 356, 357, 359, 360, 372 of this title; title 42 section 10608.

-End-

-CITE-

28 USC Sec. 332

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 15 - CONFERENCES AND COUNCILS OF JUDGES

-HEAD-

Sec. 332. Judicial councils of circuits

-STATUTE-

(a)(1) The chief judge of each judicial circuit shall call, at least twice in each year and at such places as he or she may designate, a meeting of the judicial council of the circuit, consisting of the chief judge of the circuit, who shall preside, and an equal number of circuit judges and district judges of the circuit, as such number is determined by majority vote of all such judges of the circuit in regular active service.

(2) Members of the council shall serve for terms established by a majority vote of all judges of the circuit in regular active service.

(3) Except for the chief judge of the circuit, either judges in regular active service or judges retired from regular active service under section 371(b) of this title may serve as members of the council. Service as a member of a judicial council by a judge retired from regular active service under section 371(b) may not be considered for meeting the requirements of section 371(f)(1)(A), (B), or (C).(!1)

(4) No more than one district judge from any one district shall serve simultaneously on the council, unless at least one district judge from each district within the circuit is already serving as a member of the council.

(5) In the event of the death, resignation, retirement under section 371(a) or 372(a) of this title, or disability of a member of the council, a replacement member shall be designated to serve

the remainder of the unexpired term by the chief judge of the circuit.

(6) Each member of the council shall attend each council meeting unless excused by the chief judge of the circuit.

(b) The council shall be known as the Judicial Council of the circuit.

(c) The chief judge shall submit to the council the semiannual reports of the Director of the Administrative Office of the United States Courts. The council shall take such action thereon as may be necessary.

(d)(1) Each judicial council shall make all necessary and appropriate orders for the effective and expeditious administration of justice within its circuit. Any general order relating to practice and procedure shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such order so relating shall take effect upon the date specified by such judicial council. Copies of such orders so relating shall be furnished to the Judicial Conference and the Administrative Office of the United States Courts and be made available to the public. Each council is authorized to hold hearings, to take sworn testimony, and to issue subpoenas and subpoenas duces tecum. Subpoenas and subpoenas duces tecum shall be issued by the clerk of the court of appeals, at the direction of the chief judge of the circuit or his designee and under the seal of the court, and shall be served in the manner provided in rule 45(c) of the Federal Rules of Civil Procedure for subpoenas and subpoenas duces tecum issued on behalf of the United States or an officer or agency thereof.

(2) All judicial officers and employees of the circuit shall promptly carry into effect all orders of the judicial council. In the case of failure to comply with an order made under this subsection or a subpoena issued under chapter 16 of this title, a judicial council or a special committee appointed under section 353 of this title may institute a contempt proceeding in any district court in which the judicial officer or employee of the circuit who fails to comply with the order made under this subsection shall be ordered to show cause before the court why he or she should not be held in contempt of court.

(3) Unless an impediment to the administration of justice is involved, regular business of the courts need not be referred to the council.

(4) Each judicial council shall periodically review the rules which are prescribed under section 2071 of this title by district courts within its circuit for consistency with rules prescribed under section 2072 of this title. Each council may modify or abrogate any such rule found inconsistent in the course of such a review.

(e) The judicial council of each circuit may appoint a circuit executive. In appointing a circuit executive, the judicial council shall take into account experience in administrative and executive positions, familiarity with court procedures, and special training. The circuit executive shall exercise such administrative powers and perform such duties as may be delegated to him by the circuit council. The duties delegated to the circuit executive of each circuit may include but need not be limited to:

(1) Exercising administrative control of all nonjudicial activities of the court of appeals of the circuit in which he is appointed.

(2) Administering the personnel system of the court of appeals of the circuit.

(3) Administering the budget of the court of appeals of the circuit.

(4) Maintaining a modern accounting system.

(5) Establishing and maintaining property control records and undertaking a space management program.

(6) Conducting studies relating to the business and administration of the courts within the circuit and preparing appropriate recommendations and reports to the chief judge, the circuit council, and the Judicial Conference.

(7) Collecting, compiling, and analyzing statistical data with a view to the preparation and presentation of reports based on such data as may be directed by the chief judge, the circuit council, and the Administrative Office of the United States Courts.

(8) Representing the circuit as its liaison to the courts of the various States in which the circuit is located, the marshal's

office, State and local bar associations, civic groups, news media, and other private and public groups having a reasonable interest in the administration of the circuit.

(9) Arranging and attending meetings of the judges of the circuit and of the circuit council, including preparing the agenda and serving as secretary in all such meetings.

(10) Preparing an annual report to the circuit and to the Administrative Office of the United States Courts for the preceding calendar year, including recommendations for more expeditious disposition of the business of the circuit.

All duties delegated to the circuit executive shall be subject to the general supervision of the chief judge of the circuit.

(f)(1) Each circuit executive shall be paid at a salary to be established by the Judicial Conference of the United States not to exceed the annual rate of level IV of the Executive Schedule pay rates under section 5315 of title 5.

(2) The circuit executive shall serve at the pleasure of the judicial council of the circuit.

(3) The circuit executive may appoint, with the approval of the council, necessary employees in such number as may be approved by the Director of the Administrative Office of the United States Courts.

(4) The circuit executive and his staff shall be deemed to be officers and employees of the judicial branch of the United States Government within the meaning of subchapter III of chapter 83 (relating to civil service retirement), chapter 87 (relating to Federal employees' life insurance program), and chapter 89 (relating to Federal employees' health benefits program) of title 5, United States Code.

(g) No later than January 31 of each year, each judicial council shall submit a report to the Administrative Office of the United States Courts on the number and nature of orders entered under this section during the preceding calendar year that relate to judicial misconduct or disability.

(h)(1) The United States Court of Appeals for the Federal Circuit may appoint a circuit executive, who shall serve at the pleasure of the court. In appointing a circuit executive, the court shall take

into account experience in administrative and executive positions, familiarity with court procedures, and special training. The circuit executive shall exercise such administrative powers and perform such duties as may be delegated by the court. The duties delegated to the circuit executive may include the duties specified in subsection (e) of this section, insofar as such duties are applicable to the Court of Appeals for the Federal Circuit.

(2) The circuit executive shall be paid the salary for circuit executives established under subsection (f) of this section.

(3) The circuit executive may appoint, with the approval of the court, necessary employees in such number as may be approved by the Director of the Administrative Office of the United States Courts.

(4) The circuit executive and staff shall be deemed to be officers and employees of the United States within the meaning of the statutes specified in subsection (f)(4).

(5) The court may appoint either a circuit executive under this subsection or a clerk under section 711 of this title, but not both, or may appoint a combined circuit executive/clerk who shall be paid the salary of a circuit executive.

-SOURCE-

(June 25, 1948, ch. 646, 62 Stat. 902; Pub. L. 88-176, Sec. 3, Nov. 13, 1963, 77 Stat. 331; Pub. L. 91-647, Jan. 5, 1971, 84 Stat. 1907; Pub. L. 95-598, title II, Sec. 209, Nov. 6, 1978, 92 Stat. 2661; Pub. L. 96-458, Sec. 2(a)-(d)(1), Oct. 15, 1980, 94 Stat. 2035, 2036; Pub. L. 100-459, title IV, Sec. 407, Oct. 1, 1988, 102 Stat. 2213; Pub. L. 100-702, title IV, Sec. 403(a)(2), (b), title X, Secs. 1018, 1020(a)(1), Nov. 19, 1988, 102 Stat. 4651, 4670, 4671; Pub. L. 101-650, title III, Secs. 323, 325(b)(1), title IV, Sec. 403, Dec. 1, 1990, 104 Stat. 5120, 5121, 5124; Pub. L. 102-198, Sec. 1, Dec. 9, 1991, 105 Stat. 1623; Pub. L. 104-317, title II, Sec. 208, Oct. 19, 1996, 110 Stat. 3851; Pub. L. 106-518, title II, Sec. 205, title III, Sec. 306, Nov. 13, 2000, 114 Stat. 2414, 2418; Pub. L. 106-553, Sec. 1(a)(2) [title III, Sec. 306], Dec. 21, 2000, 114 Stat. 2762, 2762A-85; Pub. L. 107-273, div. C, title I, Sec. 11043(c), Nov. 2, 2002, 116 Stat. 1855.)

-MISC1-

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., Sec. 448 (Mar. 3, 1911, ch. 231, Sec. 306, as added Aug. 7, 1939, ch. 501, Sec. 1, 53 Stat. 1223).

The final sentence of section 448 of title 28, U.S.C., 1940 ed., excepting from the operation of said section the provisions of existing law as to assignment of district judges outside their districts, was omitted as surplusage, since there is nothing in this section in conflict with section 292 of this title providing for such assignments.

The requirement for attendance of circuit judges, unless excused by the chief judge, was included in conformity with a similar provision of section 331 of this title.

Changes in phraseology were made.

-REFTEXT-

REFERENCES IN TEXT

Section 371(f) of this title, referred to in subsec. (a)(3), was redesignated section 371(e) of this title by Pub. L. 106-398, Sec. 1[[div. A], title VI, Sec. 654(a)(1)(B)], Oct. 30, 2000, 114 Stat. 1654, 1654A-165.

The Federal Rules of Civil Procedure, referred to in subsec. (d)(1), are set out in the Appendix to this title.

-MISC2-

AMENDMENTS

2002 - Subsec. (d)(2). Pub. L. 107-273, Sec. 11043(c)(1), substituted "chapter 16 of this title" for "section 372(c) of this title" and "section 353 of this title" for "section 372(c)(4) of this title".

Subsec. (h). Pub. L. 107-273, Sec. 11043(c)(2), struck out subsec. (h) as added by Pub. L. 106-553, which read as follows:

"(h)(1) The United States Court of Appeals for the Federal Circuit may appoint a circuit executive, who shall serve at the

pleasure of the court. In appointing a circuit executive, the court shall take into account experience in administrative and executive positions, familiarity with court procedures, and special training. The circuit executive shall exercise such administrative powers and perform such duties as may be delegated by the court. The duties delegated to the circuit executive may include but need not be limited to the duties specified in subsection (e) of this section, insofar as they are applicable to the Court of Appeals for the Federal Circuit.

"(2) The circuit executive shall be paid the salary for circuit executives established under subsection (f) of this section.

"(3) The circuit executive may appoint, with the approval of the court, necessary employees in such number as may be approved by the Director of the Administrative Office of the United States Courts.

"(4) The circuit executive and staff shall be deemed to be officers and employees of the United States within the meaning of the statutes specified in subsection (f)(4).

"(5) The court may appoint either a circuit executive under this subsection or a clerk under section 711 of this title, but not both, or may appoint a combined circuit executive/clerk who shall be paid the salary of a circuit executive."

2000 - Subsec. (a)(3). Pub. L. 106-518, Sec. 205(1), added par. (3) and struck out former par. (3) which read as follows: "Only circuit and district judges in regular active service shall serve as members of the council."

Subsec. (a)(5). Pub. L. 106-518, Sec. 205(2), substituted "retirement under section 371(a) or 372(a) of this title," for "retirement,".

Subsec. (h). Pub. L. 106-553 added subsec. (h) relating to circuit executive for United States Court of Appeals for the Federal Circuit, set out second.

Pub. L. 106-518, Sec. 306, added subsec. (h) relating to circuit executive for United States Court of Appeals for the Federal Circuit, set out first.

1996 - Subsec. (g). Pub. L. 104-317 added subsec. (g).

1991 - Subsec. (a)(1). Pub. L. 102-198 substituted "such number" for "such member" and "service" for "services".

1990 - Subsec. (a)(1). Pub. L. 101-650, Sec. 323(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The chief judge of each judicial circuit shall call, at least twice in each year and at such places as he may designate, a meeting of the judicial council of the circuit, consisting of -

"(A) the chief judge of the circuit, who shall preside;

"(B) that number of circuit judges fixed by majority vote of all such judges in regular active service; and

"(C) that number of district judges of the circuit fixed by majority vote of all circuit judges in regular active service, except that -

"(i) if the number of circuit judges fixed in accordance with subparagraph (B) of this paragraph is less than six, the number of district judges fixed in accordance with this subparagraph shall be no less than two; and

"(ii) if the number of circuit judges fixed in accordance with subparagraph (B) of this paragraph is six or more, the number of district judges fixed in accordance with this subparagraph shall be no less than three."

Subsec. (a)(3) to (7). Pub. L. 101-650, Sec. 323(b), redesignated pars. (4) to (7) as (3) to (6), respectively, and struck out former par. (3) which read as follows: "The number of circuit and district judges fixed in accordance with paragraphs (1)(B) and (1)(C) of this subsection shall be set by order of the court of appeals for the circuit no less than six months prior to a scheduled meeting of the council so constituted."

Subsec. (d)(2). Pub. L. 101-650, Sec. 403, inserted at end "In the case of failure to comply with an order made under this subsection or a subpoena issued under section 372(c) of this title, a judicial council or a special committee appointed under section 372(c)(4) of this title may institute a contempt proceeding in any district court in which the judicial officer or employee of the circuit who fails to comply with the order made under this subsection shall be ordered to show cause before the court why he or she should not be held in contempt of court."

Subsec. (f)(1). Pub. L. 101-650, Sec. 325(b)(1), substituted "under section 5315 of title 5" for "(5 U.S.C. 5316)".

1988 - Subsec. (c). Pub. L. 100-702, Sec. 1020(a)(1), substituted "semiannual" for "semi-annually".

Subsec. (d)(1). Pub. L. 100-702, Sec. 403(b), inserted after first sentence "Any general order relating to practice and procedure shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such order so relating shall take effect upon the date specified by such judicial council. Copies of such orders so relating shall be furnished to the Judicial Conference and the Administrative Office of the United States Courts and be made available to the public."

Subsec. (d)(4). Pub. L. 100-702, Sec. 403(a)(2), added par. (4).

Subsec. (e). Pub. L. 100-702, Sec. 1018(1), substituted "executive. In appointing a circuit executive, the judicial council shall take into account experience in administrative and executive positions, familiarity with court procedures, and special training." for "executive from among persons who shall be certified by the Board of Certification." in first sentence.

Subsec. (f). Pub. L. 100-702, Sec. 1018(2), designated last four undesignated pars. as pars. (1) to (4), respectively, and struck out former first undesignated par. which related to establishment, functions, and staffing of Board of Certification and setting standards for certification as qualified to be circuit executive.

Pub. L. 100-459 substituted "level IV" for "level V".

1980 - Pub. L. 96-458, Sec. 2(d)(1), substituted "Judicial councils of circuits" for "Judicial councils" in section catchline.

Subsec. (a). Pub. L. 96-458, Sec. 2(a), in par. (1) designated existing provisions as introductory provision and in such introductory provision substituted "each judicial circuit" for "each circuit", substituted "a meeting of the judicial council of the circuit, consisting of - " for "a council of the circuit judges for the circuit, in regular active service, at which he shall preside. Each circuit judge, unless excused by the chief judge, shall attend all sessions of the council.", and added subpars. (A) to (C) and pars. (2) to (7).

Subsec. (c). Pub. L. 96-458, Sec. 2(b), substituted "semiannually" for "quarterly".

Subsec. (d). Pub. L. 96-458, Sec. 2(c), amended subsec. (d)

generally, designating existing provisions as par. (1), inserting "and appropriate" after "all necessary", substituting "justice within its circuit" for "the business of the courts within its circuit", striking out "The district judges shall promptly carry into effect all orders of the judicial council." after "within its circuit.", inserting provisions relating to the holding of hearings, taking of testimony, the issuance of subpoenas and service thereof under the Federal Rules of Civil Procedure, and adding pars. (2) and (3).

1978 - Subsec. (d). Pub. L. 95-598 directed the amendment of subsec. (d) by inserting "and bankruptcy judges" after "The district 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.

1971 - Pub. L. 91-647 designated existing four paragraphs as subsecs. (a), (b), (c), and (d), respectively, and added subsecs. (e) and (f).

1963 - Pub. L. 88-176 inserted "regular" before "active service" in first sentence.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 407 of Pub. L. 101-650 provided that: "The amendments made by this subtitle [subtitle I (Secs. 402-407) of title IV of Pub. L. 101-650, amending this section, sections 372, 453, and 2077 of this title, and provisions set out in the Appendix to Title 5, Government Organization and Employees] shall take effect 90 days after the date of the enactment of this Act [Dec. 1, 1990]."

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 403(a)(2), (b) of Pub. L. 100-702 effective Dec. 1, 1988, see section 407 of Pub. L. 100-702, set out as a note under section 2071 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-458 effective Oct. 1, 1981, see section 7 of Pub. L. 96-458, set out as a note under section 331 of this title.

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 356, 372 of this title;
title 5 section 5307.

-FOOTNOTE-

(!1) See References in Text note below.

-End-

APPENDIX A - 28 U.S.C. §§ 351-364

§ 351. Complaints; Judge Defined

(a) Filing of complaint by any person.

Any person alleging that a judge has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts, or alleging that such judge is unable to discharge all the duties of office by reason of mental or physical disability, may file with the clerk of the court of appeals for the circuit a written complaint containing a brief statement of the facts constituting such conduct.

(b) Identifying complaint by chief judge.

In the interests of the effective and expeditious administration of the business of the courts and on the basis of information available to the chief judge of the circuit, the chief judge may, by written order stating reasons therefor, identify a complaint for purposes of this chapter and thereby dispense with filing of a written complaint.

(c) Transmittal of complaint. Upon receipt of a complaint filed under subsection (a), the clerk shall promptly transmit the complaint to the chief judge of the circuit, or, if the conduct complained of is that of the chief judge, to that circuit judge in regular active service next senior in date of commission (hereafter, for purposes of this chapter only, included in the term “chief judge”). The clerk shall simultaneously transmit a copy of the complaint to the judge whose conduct is the subject of the complaint. The clerk shall also transmit a copy of any complaint identified under subsection (b) to the judge whose conduct is the subject of the complaint.

(d) Definitions. In this chapter –

- (1) The term “judge” means a circuit judge, district judge, bankruptcy judge, or magistrate judge; and
- (2) The term “complainant” means the person filing a complaint under subsection (a) of this section.

§ 352. Review of Complaint by Chief Judge.

(a) Expeditious review; limited inquiry. The chief judge shall expeditiously review any complaint received under section 351(a) or identified under section 351(b). In determining what action to take, the chief judge may conduct a limited inquiry for the purpose of determining –

- (1) whether appropriate corrective action has been or can be taken without the necessity for a formal investigation; and
- (2) whether the facts stated in the complaint are either plainly untrue or are incapable of being established through investigation

For this purpose, the chief judge may request the judge whose conduct is complained of to file a written response to the complaint. Such response shall not be made available to the complainant unless authorized by the judge filing the response. The chief judge or his or her designee may also communicate orally or in writing with the complainant, the judge whose conduct is complained of, and any other person who may have knowledge of the matter, and may review any transcripts or other relevant documents. The chief judge shall not undertake to make findings of fact about any matter that is reasonably in dispute.

(b) Action by chief judge following review. After expeditiously reviewing a complaint under subsection (a), the chief judge by written order stating his or her reasons, may –

- (1) dismiss the complaint –
 - (A) if the chief judge finds the complaint to be –
 - (i) not in conformity with section 351(a);
 - (ii) directly related to the merits of a decision or procedural ruling; or
 - (iii) frivolous, lacking sufficient evidence to raise an inference that misconduct has occurred, or containing allegations which are incapable of being established through investigation; or
 - (B) when a limited inquiry conducted under subsection (a) demonstrates that the allegations in the complaint lack any factual foundation or are conclusively refuted by objective evidence; or
- (2) conclude the proceeding if the chief judge finds that appropriate corrective action has been taken or that action on the complaint is no longer necessary because of intervening events.

The chief judge shall transmit copies of the written order to the complainant and to the judge whose conduct is the subject of the complaint.

(c) Review of orders of chief judge. A complainant or judge aggrieved by a final order of the chief judge under this section may petition the judicial council of the circuit for review thereof. The denial of a petition for review of the chief judge’s order shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

(d) Referral of petitions for review to panels of the judicial council. Each judicial council may, pursuant to rules prescribed under section 358, refer a petition for review filed under subsection (c) to a panel of no fewer than 5 members of the council, at least 2 of whom shall be district judges.

§ 353. Special Committees.

(a) Appointment. If the chief judge does not enter an order under section 352(b), the chief judge shall promptly –

(1) appoint himself or herself and equal numbers of circuit and district judges of the circuit to a special committee to investigate the facts and allegations contained in the complaint;

(2) certify the complaint and any other documents pertaining thereto to each member of such committee; and

(3) provide written notice to the complainant and the judge whose conduct is the subject of the complaint of the action taken under this subsection.

(b) Change in status or death of judges. A judge appointed to a special committee under subsection (a) may continue to serve on that committee after becoming a senior judge or, in the case of the chief judge of the circuit, after his or her term as chief judge terminates under subsection (a)(3) or (c) of section 45. If a judge appointed to a committee under subsection (a) dies, or retires from office under section 371(a), while serving on the committee, the chief judge of the circuit may appoint another circuit or district judge, as the case may be, to the committee.

(c) Investigation by special committee. Each committee appointed under subsection (a) shall conduct an investigation as extensive as it considers necessary, and shall expeditiously file a comprehensive written report thereon with the judicial council of the circuit. Such report shall present both the findings of the investigation and the committee’s recommendation for necessary and appropriate action by the judicial council of the circuit.

§ 354. Action by Judicial Council.

(a) Actions upon receipt of report.

(1) **Actions.** The judicial council of a circuit, upon receipt of a report filed under section 353(c) –

(A) may conduct any additional investigation which it considers to be necessary;

(B) may dismiss the complaint; and

(C) if the complaint is not dismissed, shall take such action as is appropriate to assure the effective and expeditious administration of the business of the courts within the circuit.

(2) Description of possible actions if complaint is not dismissed –

(A) **In general.** – Action by the judicial council under paragraph (1)(C) may include –

(i) ordering that, on a temporary basis for a time certain, no further cases be assigned to the judge whose conduct is the subject of the complaint;

(ii) censuring or reprimanding such judge by means of private communication; and

(iii) censuring or reprimanding such judge by means of public announcement.

(B) **For Article III judges.** If the conduct of a judge appointed to hold office during good behavior is the subject of the complaint, action by the judicial council under paragraph (1)(C) may include –

(i) certifying disability of the judge pursuant to the procedures and standards provided under section 372(b); and

(ii) requesting that the judge voluntarily retire, with the provision that the length of service requirements under section 371 of this title shall not apply.

(C) **For magistrate judges.** If the conduct of a magistrate judge is the subject of the complaint, action by the judicial council under paragraph (1)(C) may include directing the chief judge of the district of the magistrate judge to take such action as the judicial council considers appropriate.

(3) **Limitations on judicial council regarding removals.**

(A) **Article III judges.** Under no circumstances may the judicial council order removal from office of any judge appointed to hold office during good behavior.

(B) **Magistrate and bankruptcy judges.** Any removal of a magistrate judge under this subsection shall be in accordance with section 631 and any removal of a bankruptcy judge shall be in accordance with section 152.

(4) **Notice of action to judge.** The judicial council shall immediately provide written notice to the complainant and to the judge whose conduct is the subject of the complaint of the action taken under this subsection.

(b) Referral to Judicial Conference.

(1) In general. In addition to the authority granted under subsection (a), the judicial council may, in its discretion, refer any complaint under section 351, together with the record of any associated proceedings and its recommendations for appropriate action, to the Judicial Conference of the United States.

(2) Special circumstances. In any case in which the judicial council determines, on the basis of a complaint and an investigation under this chapter, or on the basis of information otherwise available to the judicial council, that a judge appointed to hold office during good behavior may have engaged in conduct--

(A) which might constitute one or more grounds for impeachment under article II of the Constitution, or

(B) which, in the interest of justice, is not amenable to resolution by the judicial council, the judicial council shall promptly certify such determination, together with any complaint and a record of any associated proceedings, to the Judicial Conference of the United States.

(3) Notice to complainant and judge. A judicial council acting under authority of this subsection shall, unless contrary to the interests of justice, immediately submit written notice to the complainant and to the judge whose conduct is the subject of the action taken under this subsection.

§ 355. Action by Judicial Conference.

(a) In general. Upon referral or certification of any matter under section 354(b), the Judicial Conference, after consideration of the prior proceedings and such additional investigation as it considers appropriate, shall by majority vote take such action, as described in section 354(a)(1)(C) and (2), as it considers appropriate.

(b) If impeachment warranted.

(1) In general. If the Judicial Conference concurs in the determination of the judicial council, or makes its own determination, that consideration of impeachment may be warranted, it shall so certify and transmit the determination and the record of proceedings to the House of Representatives for whatever action the House of Representatives considers to be necessary. Upon receipt of the determination and record of proceedings in the House of Representatives, the Clerk of the House of Representatives shall make available to the public the determination and any reasons for the determination.

(2) In case of felony conviction. If a judge has been convicted of a felony under State or Federal law and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, the Judicial Conference may, by majority vote and without referral or certification under section 354(b), transmit to the House of Representatives a determination that consideration of impeachment may be warranted, together with appropriate court records, for whatever action the House of Representatives considers to be necessary.

§ 356. Subpoena Power.

(a) Judicial councils and special committees. In conducting any investigation under this chapter, the judicial council, or a special committee appointed under section 353, shall have full subpoena powers as provided in section 332(d).

(b) Judicial Conference and standing committees. In conducting any investigation under this chapter, the Judicial Conference, or a standing committee appointed by the Chief Justice under section 331, shall have full subpoena powers as provided in that section.

§ 357. Review of Orders and Actions.

(a) Review of action of judicial council. A complainant or judge aggrieved by an action of the judicial council under section 354 may petition the Judicial Conference of the United States for review thereof.

(b) Action of Judicial Conference. The Judicial Conference, or the standing committee established under section 331, may grant a petition filed by a complainant or judge under subsection (a).

(c) No judicial review. Except as expressly provided in this section and section 352(c), all orders and determinations, including denials of petitions for review, shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

§ 358. Rules

(a) In general. Each judicial council and the Judicial Conference may prescribe such rules for the conduct of proceedings under this chapter, including the processing of petitions for review, as each considers to be appropriate.

(b) Required provisions. Rules prescribed under subsection (a) shall contain provisions requiring that--

(1) adequate prior notice of any investigation be given in writing to the judge whose conduct is the subject of a complaint under this chapter;

(2) the judge whose conduct is the subject of a complaint under this chapter be afforded an opportunity to appear (in person or by counsel) at proceedings conducted by the investigating panel, to present oral and documentary evidence, to compel the attendance of witnesses or the production of documents, to cross-examine witnesses, and to present argument orally or in writing; and

(3) the complainant be afforded an opportunity to appear at proceedings conducted by the investigating panel, if the panel concludes that the complainant could offer substantial information.

(c) Procedures. Any rule prescribed under this section shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such rule shall be a matter of public record, and any such rule promulgated by a judicial council may be modified by the Judicial Conference. No rule promulgated under this section may limit the period of time within which a person may file a complaint under this chapter.

§ 359. Restrictions

(a) Restriction on individuals who are subject of investigation. No judge whose conduct is the subject of an investigation under this chapter shall serve upon a special committee appointed under section 353, upon a judicial council, upon the Judicial Conference, or upon the standing committee established under section 331, until all proceedings under this chapter relating to such investigation have been finally terminated.

(b) Amicus curiae. No person shall be granted the right to intervene or to appear as amicus curiae in any proceeding before a judicial council or the Judicial Conference under this chapter.

§ 360. Disclosure of Information.

(a) Confidentiality of proceedings. Except as provided in section 355, all papers, documents, and records of proceedings related to investigations conducted under this chapter shall be confidential and shall not be disclosed by any person in any proceeding except to the extent that--

(1) the judicial council of the circuit in its discretion releases a copy of a report of a special committee under section 353(c) to the complainant whose complaint initiated the investigation by that special committee and to the judge whose conduct is the subject of the complaint;

(2) the judicial council of the circuit, the Judicial Conference of the United States, or the Senate or the House of Representatives by resolution, releases any such material which is believed necessary to an impeachment investigation or trial of a judge under article I of the Constitution; or

(3) such disclosure is authorized in writing by the judge who is the subject of the complaint and by the chief judge of the circuit, the Chief Justice, or the chairman of the standing committee established under section 331.

(b) Public availability of written orders. Each written order to implement any action under section 354(a)(1)(C), which is issued by a judicial council, the Judicial Conference, or the standing committee established under section 331, shall be made available to the public through the appropriate clerk's office of the court of appeals for the circuit. Unless contrary to the interests of justice, each such order shall be accompanied by written reasons therefor.

§ 361. Reimbursement of Expenses.

Upon the request of a judge whose conduct is the subject of a complaint under this chapter, the judicial council may, if the complaint has been finally dismissed under section 354(a)(1)(B), recommend that the Director of the Administrative Office of the United States Courts award reimbursement, from funds appropriated to the Federal judiciary, for those reasonable expenses, including attorneys' fees, incurred by that judge during the investigation which would not have been incurred but for the requirements of this chapter.

§ 362. Other Provisions and Rules Not Affected.

Except as expressly provided in this chapter, nothing in this chapter shall be construed to affect any other provision of this title, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Federal Rules of Appellate Procedure, or the Federal Rules of Evidence.

§ 363. Court of Federal Claims, Court of International Trade, Court of Appeals for the Federal Circuit

The United States Court of Federal Claims, the Court of International Trade, and the Court of Appeals for the Federal Circuit shall each prescribe rules, consistent with the provisions of this chapter, establishing procedures for the filing of complaints with respect to the conduct of any judge of such court and for the investigation and resolution of such complaints. In investigating and taking action with respect to any such complaint, each such court shall have the powers granted to a judicial council under this chapter.

§ 364. Effect of Felony Conviction.

In the case of any judge or judge of a court referred to in section 363 who is convicted of a felony under State or Federal law and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, the following shall apply:

(1) The judge shall not hear or decide cases unless the judicial council of the circuit (or, in the case of a judge of a court referred to in section 363, that court) determines otherwise.

(2) Any service as such judge or judge of a court referred to in section 363, after the conviction is final and all time for filing appeals thereof has expired, shall not be included for purposes of determining years of service under section 371(c), 377, or 178 of this title or creditable service under subchapter III of chapter 83, or chapter 84, of title 5.

28 USC Sec. 453

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 21 - GENERAL PROVISIONS APPLICABLE TO COURTS
AND JUDGES

-HEAD-

Sec. 453. Oaths of justices and judges

-STATUTE-

Each justice or judge of the United States shall take the following oath or affirmation before performing the duties of his office: "I, ___ XXX, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as ___ under the Constitution and laws of the United States. So help me God."

-SOURCE-

(June 25, 1948, ch. 646, 62 Stat. 907; Pub. L. 101-650, title IV, Sec. 404, Dec. 1, 1990, 104 Stat. 5124.)

-MISC1-

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., Secs. 241, 372, and District of Columbia Code, 1940 ed., Secs. 11-203, 11-303 (R.S.D.C., Sec. 752, 18 Stat. pt. II, 90; Feb. 9, 1893, ch. 74, Sec. 3, 27 Stat. 435; Mar. 3, 1901, ch. 854, Sec. 223, 31 Stat. 1224; Mar. 3, 1911, ch. 231, Secs. 136, 137, 257, 36 Stat. 1135, 1161; Feb. 25, 1919,

ch. 29, Sec. 4, 40 Stat. 1157).

This section consolidates sections 11-203 and 11-303 of District of Columbia Code, 1940 ed., and section 372 of title 28, U.S.C., 1940 ed., with that portion of section 241 of said title 28 providing that judges of the Court of Claims shall take an oath of office. The remainder of said section 241 comprises sections 171 and 173 of this title.

The phrase "justice or judge of the United States" was substituted for "justices of the Supreme Court, the circuit judges, and the district judges" appearing in said section 372, in order to extend the provisions of this section to judges of the Court of Claims, Customs Court, and Court of Customs and Patent Appeals and to all judges of any court which may be created by enactment of Congress. See definition in section 451 of this title.

The Attorney General has ruled that the expression "any judge of any court of the United States" applied to the Chief Justice and all judges of the Court of Claims. (21 Op. Atty. Gen. 449.)

AMENDMENTS

1990 - Pub. L. 101-650 substituted "under the Constitution" for "according to the best of my abilities and understanding, agreeably to the Constitution".

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-650 effective 90 days after Dec. 1, 1990, see section 407 of Pub. L. 101-650, set out as a note under section 332 of this title.

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 460, 631, 655 of this title.

-End-

28 USC Sec. 455

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 21 - GENERAL PROVISIONS APPLICABLE TO COURTS
AND JUDGES

-HEAD-

Sec. 455. Disqualification of justice, judge, or magistrate judge

-STATUTE-

(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

(b) He shall also disqualify himself in the following circumstances:

(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(2) Where in private practice he served as lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;

(3) Where he has served in governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;

(4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

(5) He or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

- (i) Is a party to the proceeding, or an officer, director, or trustee of a party;
- (ii) Is acting as a lawyer in the proceeding;
- (iii) Is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;
- (iv) Is to the judge's knowledge likely to be a material witness in the proceeding.

(c) A judge should inform himself about his personal and fiduciary financial interests, and make a reasonable effort to inform himself about the personal financial interests of his spouse and minor children residing in his household.

(d) For the purposes of this section the following words or phrases shall have the meaning indicated:

(1) "proceeding" includes pretrial, trial, appellate review, or other stages of litigation;

(2) the degree of relationship is calculated according to the civil law system;

(3) "fiduciary" includes such relationships as executor, administrator, trustee, and guardian;

(4) "financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, adviser, or other active participant in the affairs of a party, except that:

(i) Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund;

(ii) An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;

(iii) The proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

(iv) Ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

(e) No justice, judge, or magistrate judge shall accept from the parties to the proceeding a waiver of any ground for disqualification enumerated in subsection (b). Where the ground for disqualification arises only under subsection (a), waiver may be accepted provided it is preceded by a full disclosure on the record of the basis for disqualification.

(f) Notwithstanding the preceding provisions of this section, if any justice, judge, magistrate judge, or bankruptcy judge to whom a matter has been assigned would be disqualified, after substantial judicial time has been devoted to the matter, because of the appearance or discovery, after the matter was assigned to him or her, that he or she individually or as a fiduciary, or his or her spouse or minor child residing in his or her household, has a financial interest in a party (other than an interest that could be substantially affected by the outcome), disqualification is not required if the justice, judge, magistrate judge, bankruptcy judge,

spouse or minor child, as the case may be, divests himself or herself of the interest that provides the grounds for the disqualification.

-SOURCE-

(June 25, 1948, ch. 646, 62 Stat. 908; Pub. L. 93-512, Sec. 1, Dec. 5, 1974, 88 Stat. 1609; Pub. L. 95-598, title II, Sec. 214(a), (b), Nov. 6, 1978, 92 Stat. 2661; Pub. L. 100-702, title X, Sec. 1007, Nov. 19, 1988, 102 Stat. 4667; Pub. L. 101-650, title III, Sec. 321, Dec. 1, 1990, 104 Stat. 5117.)

-MISC1-

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., Sec. 24 (Mar. 3, 1911, ch. 231, Sec. 20, 36 Stat. 1090).

Section 24 of title 28, U.S.C., 1940 ed., applied only to district judges. The revised section is made applicable to all justices and judges of the United States.

The phrase "in which he has a substantial interest" was substituted for "concerned in interest in any suit."

The provision of section 24 of title 28, U.S.C., 1940 ed., as to giving notice of disqualification to the "senior circuit judge," and words "and thereupon such proceedings shall be had as are provided in sections 17 and 18 of this title," were omitted as unnecessary and covered by section 291 et seq. of this title relating to designation and assignment of judges. Such provision is not made by statute in case of disqualification or incapacity, for other cause. See sections 140, 143, and 144 of this title. If a judge or clerk of court is remiss in failing to notify the chief judge of the district or circuit, the judicial council of the circuit has ample power under section 332 of this title to apply a remedy.

Relationship to a party's attorney is included in the revised section as a basis of disqualification in conformity with the views of judges cognizant of the grave possibility of undesirable consequences resulting from a less inclusive rule.

Changes were made in phraseology.

AMENDMENTS

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

1978 - Pub. L. 95-598 struck out references to referees in bankruptcy in section catchline and in subsecs. (a) and (e).

1974 - Pub. L. 93-512 substituted "Disqualification of justice, judge, magistrate, or referee in bankruptcy" for "Interest of justice or judge" in section catchline, reorganized structure of provisions, and expanded applicability to include magistrates and referees in bankruptcy and grounds for which disqualification may be based, and inserted provisions relating to waiver of disqualification.

-CHANGE-

CHANGE OF NAME

Words "magistrate judge" substituted for "magistrate" in section catchline and wherever appearing in subsecs. (a), (e), and (f) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title.

-MISC2-

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(c) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy. For procedures relating to Bankruptcy matters during transition period see note preceding section 151 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 3 of Pub. L. 93-512 provided that: "This Act [amending this section] shall not apply to the trial of any proceeding commenced prior to the date of this Act [Dec. 5, 1974], nor to appellate review of any proceeding which was fully submitted to the

reviewing court prior to the date of this Act."

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460, 653, 655 of this title; title 38 section 7264.

-End-

-CITE-

28 USC Sec. 586

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART II - DEPARTMENT OF JUSTICE
CHAPTER 39 - UNITED STATES TRUSTEES

-HEAD-

Sec. 586. Duties; supervision by Attorney General

-STATUTE-

(a) Each United States trustee, within the region for which such United States trustee is appointed, shall -

(1) establish, maintain, and supervise a panel of private trustees that are eligible and available to serve as trustees in cases under chapter 7 of title 11;

(2) serve as and perform the duties of a trustee in a case under title 11 when required under title 11 to serve as trustee in such a case;

(3) supervise the administration of cases and trustees in cases under chapter 7, 11, 12, or 13 of title 11 by, whenever the United States trustee considers it to be appropriate -

(A)(i) reviewing, in accordance with procedural guidelines adopted by the Executive Office of the United States Trustee (which guidelines shall be applied uniformly by the United States trustee except when circumstances warrant different treatment), applications filed for compensation and reimbursement under section 330 of title 11; and

(ii) filing with the court comments with respect to such application and, if the United States Trustee considers it to be appropriate, objections to such application.(!1)

(B) monitoring plans and disclosure statements filed in cases under chapter 11 of title 11 and filing with the court, in connection with hearings under sections 1125 and 1128 of such title, comments with respect to such plans and disclosure

statements;

(C) monitoring plans filed under chapters 12 and 13 of title 11 and filing with the court, in connection with hearings under sections 1224, 1229, 1324, and 1329 of such title, comments with respect to such plans;

(D) taking such action as the United States trustee deems to be appropriate to ensure that all reports, schedules, and fees required to be filed under title 11 and this title by the debtor are properly and timely filed;

(E) monitoring creditors' committees appointed under title 11;

(F) notifying the appropriate United States attorney of matters which relate to the occurrence of any action which may constitute a crime under the laws of the United States and, on the request of the United States attorney, assisting the United States attorney in carrying out prosecutions based on such action;

(G) monitoring the progress of cases under title 11 and taking such actions as the United States trustee deems to be appropriate to prevent undue delay in such progress; and

(H) monitoring applications filed under section 327 of title 11 and, whenever the United States trustee deems it to be appropriate, filing with the court comments with respect to the approval of such applications;

(4) deposit or invest under section 345 of title 11 money received as trustee in cases under title 11;

(5) perform the duties prescribed for the United States trustee under title 11 and this title, and such duties consistent with title 11 and this title as the Attorney General may prescribe; and

(6) make such reports as the Attorney General directs.

(b) If the number of cases under chapter 12 or 13 of title 11 commenced in a particular region so warrants, the United States trustee for such region may, subject to the approval of the Attorney General, appoint one or more individuals to serve as

standing trustee, or designate one or more assistant United States trustees to serve in cases under such chapter. The United States trustee for such region shall supervise any such individual appointed as standing trustee in the performance of the duties of standing trustee.

(c) Each United States trustee shall be under the general supervision of the Attorney General, who shall provide general coordination and assistance to the United States trustees.

(d) The Attorney General shall prescribe by rule qualifications for membership on the panels established by United States trustees under paragraph (a)(1) of this section, and qualifications for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 12 or 13 of title 11. The Attorney General may not require that an individual be an attorney in order to qualify for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 12 or 13 of title 11.

(e)(1) The Attorney General, after consultation with a United States trustee that has appointed an individual under subsection (b) of this section to serve as standing trustee in cases under chapter 12 or 13 of title 11, shall fix -

(A) a maximum annual compensation for such individual consisting of -

- (i) an amount not to exceed the highest annual rate of basic pay in effect for level V of the Executive Schedule; and
- (ii) the cash value of employment benefits comparable to the employment benefits provided by the United States to individuals who are employed by the United States at the same rate of basic pay to perform similar services during the same period of time; and

(B) a percentage fee not to exceed -

- (i) in the case of a debtor who is not a family farmer, ten percent; or
- (ii) in the case of a debtor who is a family farmer, the sum of -

(I) not to exceed ten percent of the payments made under

the plan of such debtor, with respect to payments in an aggregate amount not to exceed \$450,000; and

(II) three percent of payments made under the plan of such debtor, with respect to payments made after the aggregate amount of payments made under the plan exceeds \$450,000;

based on such maximum annual compensation and the actual, necessary expenses incurred by such individual as standing trustee.

(2) Such individual shall collect such percentage fee from all payments received by such individual under plans in the cases under chapter 12 or 13 of title 11 for which such individual serves as standing trustee. Such individual shall pay to the United States trustee, and the United States trustee shall deposit in the United States Trustee System Fund -

(A) any amount by which the actual compensation of such individual exceeds 5 per centum upon all payments received under plans in cases under chapter 12 or 13 of title 11 for which such individual serves as standing trustee; and

(B) any amount by which the percentage for all such cases exceeds -

(i) such individual's actual compensation for such cases, as adjusted under subparagraph (A) of paragraph (1); plus

(ii) the actual, necessary expenses incurred by such individual as standing trustee in such cases. Subject to the approval of the Attorney General, any or all of the interest earned from the deposit of payments under plans by such individual may be utilized to pay actual, necessary expenses without regard to the percentage limitation contained in subparagraph (d)(1)(B) of this section.

-SOURCE-

(Added Pub. L. 95-598, title II, Sec. 224(a), Nov. 6, 1978, 92 Stat. 2663; amended Pub. L. 99-554, title I, Sec. 113, Oct. 27, 1986, 100 Stat. 3091; Pub. L. 101-509, title V, Sec. 529 [title I, Sec. 110(a)], Nov. 5, 1990, 104 Stat. 1427, 1452; Pub. L. 103-394,

title II, Sec. 224(a), title V, Sec. 502, Oct. 22, 1994, 108 Stat. 4130, 4147.)

-REFTEXT-

REFERENCES IN TEXT

Level V of the Executive Schedule, referred to in subsec. (e)(1)(A)(i), is set out in section 5316 of Title 5, Government Organization and Employees.

-COD-

CODIFICATION

Section 408(c) of Pub. L. 95-598, as amended, which provided for the repeal of this section and the deletion of any references to United States Trustees in this title at a prospective date, was repealed by section 307(b) of Pub. L. 99-554. See note set out preceding section 581 of this title.

-MISC1-

AMENDMENTS

1994 - Subsec. (a)(3). Pub. L. 103-394 inserted "12," after "11," in introductory provisions and amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "monitoring applications for compensation and reimbursement filed under section 330 of title 11 and, whenever the United States trustee deems it to be appropriate, filing with the court comments with respect to any of such applications;"

1990 - Subsec. (e)(1)(A). Pub. L. 101-509 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "a maximum annual compensation for such individual, not to exceed the annual rate of basic pay in effect for step 1 of grade GS-16 of the General Schedule prescribed under section 5332 of title 5; and".

1986 - Subsec. (a). Pub. L. 99-554, Sec. 113(a)(1), substituted "the region for which such United States trustee is appointed" for "his district" in introductory text.

Subsec. (a)(3). Pub. L. 99-554, Sec. 113(a)(2), substituted "title 11 by, whenever the United States trustee considers it to be

appropriate - " for "title 11;" and added subpars. (A) to (H).

Subsec. (a)(5). Pub. L. 99-554, Sec. 113(a)(3), inserted "and this title, and such duties consistent with title 11 and this title as the Attorney General may prescribe" after "title 11".

Subsec. (b). Pub. L. 99-554, Sec. 113(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "If the number of cases under chapter 13 of title 11 commenced in a particular judicial district so warrant, the United States trustee for such district may, subject to the approval of the Attorney General, appoint one or more individuals to serve as standing trustee, or designate one or more assistant United States trustee, in cases under such chapter. The United States trustee for such district shall supervise any such individual appointed as standing trustee in the performance of the duties of standing trustee."

Subsec. (d). Pub. L. 99-554, Sec. 113(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "The Attorney General shall prescribe by rule qualifications for membership on the panels established by United States trustees under subsection (a)(1) of this section, and qualifications for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11. The Attorney General may not require that an individual be an attorney in order to qualify for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11."

Subsec. (e). Pub. L. 99-554, Sec. 113(c), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows:

"(1) The Attorney General, after consultation with a United States trustee that has appointed an individual under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11, shall fix -

"(A) a maximum annual compensation for such individual, not to exceed the lowest annual rate of basic pay in effect for grade GS-16 of the General Schedule prescribed under section 5332 of title 5; and

"(B) a percentage fee, not to exceed ten percent, based on such maximum annual compensation and the actual, necessary expenses

incurred by such individual as standing trustee.

"(2) Such individual shall collect such percentage fee from all payments under plans in the cases under chapter 13 of title 11 for which such individual serves as standing trustee. Such individual shall pay to the United States trustee, and the United States trustee shall pay to the Treasury -

"(A) any amount by which the actual compensation of such individual exceeds five percent upon all payments under plans in cases under chapter 13 of title 11 for which such individual serves as standing trustee; and

"(B) any amount by which the percentage for all such cases exceeds -

"(i) such individual actual compensation for such cases, as adjusted under subparagraph (A) of this paragraph; plus

"(ii) the actual, necessary expenses incurred by such individual as standing trustee in such cases."

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 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, Sec. 305] of Pub. L. 101-509, set out as a note under section 5301 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1986 AMENDMENT

Effective date and applicability of amendment by Pub. L. 99-554 dependent upon the judicial district involved, see section 302(d), (e) of Pub. L. 99-554, set out as a note under section 581 of this title.

APPLICATION TO ALL STANDING TRUSTEES

Section 529 [title I, Sec. 110(b)] of Pub. L. 101-509 provided that: "The amendment made by subsection (a) [amending this section] shall apply to any trustee to whom the provisions of section 302(d)(3) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-54 [Pub. L. 99-554]; 100 Stat. 3121) [set out in an Effective Date of 1986 Amendment note under section 581 of this title] apply."

-SECRETF-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 11 sections 326, 589a, 701, 703, 1202, 1302, 1326.

-FOOTNOTE-

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

-End-

28 U.S.C. §753

28 USC Sec. 753

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART III - COURT OFFICERS AND EMPLOYEES
CHAPTER 49 - DISTRICT COURTS

-HEAD-

Sec. 753. Reporters

-STATUTE-

(a) Each district court of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands shall appoint one or more court reporters.

The number of reporters shall be determined by the Judicial Conference of the United States.

The qualifications of such reporters shall be determined by standards formulated by the Judicial Conference. Each reporter shall take an oath faithfully to perform the duties of his office.

Each such court, with the approval of the Director of the Administrative Office of the United States Courts, may appoint additional reporters for temporary service not exceeding three months, when there is more reporting work in the district than can be performed promptly by the authorized number of reporters and the urgency is so great as to render it impracticable to obtain the approval of the Judicial Conference.

If any such court and the Judicial Conference are of the opinion that it is in the public interest that the duties of reporter should be combined with those of any other employee of the court,

the Judicial Conference may authorize such a combination and fix the salary for the performance of the duties combined.

(b) Each session of the court and every other proceeding designated by rule or order of the court or by one of the judges shall be recorded verbatim by shorthand, mechanical means, electronic sound recording, or any other method, subject to regulations promulgated by the Judicial Conference and subject to the discretion and approval of the judge. The regulations promulgated pursuant to the preceding sentence shall prescribe the types of electronic sound recording or other means which may be used. Proceedings to be recorded under this section include (1) all proceedings in criminal cases had in open court; (2) all proceedings in other cases had in open court unless the parties with the approval of the judge shall agree specifically to the contrary; and (3) such other proceedings as a judge of the court may direct or as may be required by rule or order of court as (!1) may be requested by any party to the proceeding.

The reporter or other individual designated to produce the record shall attach his official certificate to the original shorthand notes or other original records so taken and promptly file them with the clerk who shall preserve them in the public records of the court for not less than ten years.

The reporter or other individual designated to produce the record shall transcribe and certify such parts of the record of proceedings as may be required by any rule or order of court, including all arraignments, pleas, and proceedings in connection with the imposition of sentence in criminal cases unless they have been recorded by electronic sound recording as provided in this subsection and the original records so taken have been certified by him and filed with the clerk as provided in this subsection. He shall also transcribe and certify such other parts of the record of proceedings as may be required by rule or order of court. Upon the request of any party to any proceeding which has been so recorded who has agreed to pay the fee therefor, or of a judge of the court,

the reporter or other individual designated to produce the record shall promptly transcribe the original records of the requested parts of the proceedings and attach to the transcript his official certificate, and deliver the same to the party or judge making the request.

The reporter or other designated individual shall promptly deliver to the clerk for the records of the court a certified copy of any transcript so made.

The transcript in any case certified by the reporter or other individual designated to produce the record shall be deemed prima facie a correct statement of the testimony taken and proceedings had. No transcripts of the proceedings of the court shall be considered as official except those made from the records certified by the reporter or other individual designated to produce the record.

The original notes or other original records and the copy of the transcript in the office of the clerk shall be open during office hours to inspection by any person without charge.

(c) The reporters shall be subject to the supervision of the appointing court and the Judicial Conference in the performance of their duties, including dealings with parties requesting transcripts.

(d) The Judicial Conference shall prescribe records which shall be maintained and reports which shall be filed by the reporters. Such records shall be inspected and audited in the same manner as the records and accounts of clerks of the district courts, and may include records showing:

- (1) the quantity of transcripts prepared;
- (2) the fees charged and the fees collected for transcripts;
- (3) any expenses incurred by the reporters in connection with transcripts;

(4) the amount of time the reporters are in attendance upon the courts for the purpose of recording proceedings; and

(5) such other information as the Judicial Conference may require.

(e) Each reporter shall receive an annual salary to be fixed from time to time by the Judicial Conference of the United States. For the purposes of subchapter III of chapter 83 of title 5 and chapter 84 of such title, a reporter shall be considered a full-time employee during any pay period for which a reporter receives a salary at the annual salary rate fixed for a full-time reporter under the preceding sentence. All supplies shall be furnished by the reporter at his own expense.

(f) Each reporter may charge and collect fees for transcripts requested by the parties, including the United States, at rates prescribed by the court subject to the approval of the Judicial Conference. He shall not charge a fee for any copy of a transcript delivered to the clerk for the records of court. Fees for transcripts furnished in criminal proceedings to persons proceeding under the Criminal Justice Act (18 U.S.C. 3006A), or in habeas corpus proceedings to persons allowed to sue, defend, or appeal in forma pauperis, shall be paid by the United States out of moneys appropriated for those purposes. Fees for transcripts furnished in proceedings brought under section 2255 of this title to persons permitted to sue or appeal in forma pauperis shall be paid by the United States out of money appropriated for that purpose if the trial judge or a circuit judge certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal. Fees for transcripts furnished in other proceedings to persons permitted to appeal in forma pauperis shall also be paid by the United States if the trial judge or a circuit judge certifies that the appeal is not frivolous (but presents a substantial question). The reporter may require any party requesting a transcript to prepay the estimated fee in advance except as to transcripts that are to be paid for by the United States.

(g) If, upon the advice of the chief judge of any district court within the circuit, the judicial council of any circuit determines that the number of court reporters provided such district court pursuant to subsection (a) of this section is insufficient to meet temporary demands and needs and that the services of additional court reporters for such district court should be provided the judges of such district court (including the senior judges thereof when such senior judges are performing substantial judicial services for such court) on a contract basis, rather than by appointment of court reporters as otherwise provided in this section, and such judicial council notifies the Director of the Administrative Office, in writing, of such determination, the Director of the Administrative Office is authorized to and shall contract, without regard to section 3709 of the Revised Statutes of the United States, as amended (41 U.S.C. 5), with any suitable person, firm, association, or corporation for the providing of court reporters to serve such district court under such terms and conditions as the Director of the Administrative Office finds, after consultation with the chief judge of the district court, will best serve the needs of such district court.

-SOURCE-

(June 25, 1948, ch. 646, 62 Stat. 921; Oct. 31, 1951, ch. 655, Sec. 46, 65 Stat. 726; June 28, 1955, ch. 189, Sec. 3(c), 69 Stat. 176; Pub. L. 85-462, Sec. 3(c), June 20, 1958, 72 Stat. 207; Pub. L. 85-508, Sec. 12(e), July 7, 1958, 72 Stat. 348; Pub. L. 86-568, title I, Sec. 116(c), July 1, 1960, 74 Stat. 303; Pub. L. 89-163, Sept. 2, 1965, 79 Stat. 619; Pub. L. 89-167, Sept. 2, 1965, 79 Stat. 647; Pub. L. 91-272, Sec. 14, June 2, 1970, 84 Stat. 298; Pub. L. 91-545, Dec. 11, 1970, 84 Stat. 1412; Pub. L. 97-164, title IV, Sec. 401(a), Apr. 2, 1982, 96 Stat. 56; Pub. L. 104-317, title III, Sec. 305, Oct. 19, 1996, 110 Stat. 3852.)

-MISC1-

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., Sec. 9a(a), (b), (c), (d), and section 644 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions (Apr. 30, 1900, ch. 339, Sec. 86, 31 Stat. 158; Mar. 3, 1909, ch. 269, Sec. 1, 35 Stat. 838; Mar. 3, 1911, ch. 231, Sec. 5a, as added Jan. 20, 1944, ch. 3, Sec. 1(a), (b), (c), (d), 58 Stat. 5, 6, 7; Mar. 4, 1921, ch. 161, Sec. 1, 41 Stat. 1412; July 9, 1921, ch. 42, Sec. 313, 42 Stat. 119; June 1, 1922, ch. 204, title II, 42 Stat. 614, 616; Jan. 3, 1923, ch. 21, title II, 52 Stat. 1084; Feb. 12, 1925, ch. 220, 43 Stat. 890).

Section consolidates section 9a(a), (b), (c), (d) of title 28, U.S.C., 1940 ed., and part of section 644 of title 48, U.S.C., 1940 ed., relating to reporters.

The provisions of section 644 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions, relating to clerks and deputy clerks, were incorporated in section 751 of this title. The provision of said section 644 fixing the salary of the reporter at \$1,200 per annum was omitted as inconsistent with this section. Certain other provisions of said section 644 were also omitted. (See reviser's note under section 751 of this title.)

Words "including the District Court of the United States for the District of Columbia, and the district courts in the territories and insular possessions" were omitted as covered by "Each district court in the United States, the District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone, and the District Court of the Virgin Islands." (See reviser's note under section 88 of this title.) The courts in Hawaii and Puerto Rico are district courts of the United States under definitive section 451 of this title.

Words "for the performance of the duties combined" were substituted for "therefor, as provided by subsection (c) hereof, any provision of law to the contrary notwithstanding".

Subsections (e) and (f) of this section incorporate part of the provisions of subsection 9a(c) of title 28, U.S.C., 1940 ed. The

other provisions of said subsection are incorporated in sections 550 [see Prior Provisions note under that section] and 1915 of this title.

The last paragraph of subsection (b) of this section was revised to conform with the language of section 556 of title 28, U.S.C., 1940 ed., providing for inspection of books in the offices of clerks of district courts. Such section 556 will be omitted, however, as more properly coverable by rule of court.

-REFTEXT-

REFERENCES IN TEXT

The Criminal Justice Act, referred to in subsec. (f), probably means Pub. L. 88-455, Aug. 20, 1964, 78 Stat. 552, as amended, known as the Criminal Justice Act of 1964, which is classified to section 3006A of Title 18, Crimes and Criminal Procedure, and provisions set out as notes under section 3006A of Title 18.

-MISC2-

AMENDMENTS

1996 - Subsec. (e). Pub. L. 104-317 inserted "For the purposes of subchapter III of chapter 83 of title 5 and chapter 84 of such title, a reporter shall be considered a full-time employee during any pay period for which a reporter receives a salary at the annual salary rate fixed for a full-time reporter under the preceding sentence." after first sentence.

1982 - Subsec. (b). Pub. L. 97-164, amended subsec. (b) generally, substituting provisions permitting proceedings to be recorded using electronic sound recording, or any other method, subject to the approval and authorization of the Judicial Conference and of the presiding judge, for provisions requiring that an official court reporter attend each session of the court and every other proceeding designated by rule or order of the court or one of the judges.

1970 - Subsec. (e). Pub. L. 91-272, Sec. 14(1), struck out

provisions limiting to the \$3,000 to \$7,630 range the annual salary paid to reporters.

Subsec. (f). Pub. L. 91-545 restricted authorization of United States to pay fees for transcripts furnished in criminal proceedings to transcripts furnished to persons proceeding under the Criminal Justice Act.

Subsec. (g). Pub. L. 91-272, Sec. 14(2), added subsec. (g)
1965 - Subsec. (b). Pub. L. 89-163 made provision for recording of proceedings in United States District Courts by means of electronic sound recording devices, made subject to the Judicial Conference the types of electronic sound recording means used by the reporters, made electronic sound recordings of proceedings on arraignment, plea, and sentence in a criminal case when properly certified by the court reporter admissible evidence to establish the record of that part of the proceedings, required the transcribing of arraignments in addition to the criminal proceedings already required to be transcribed, and waived the transcribing requirement for arraignments, pleas, and sentencing proceedings when such proceedings have been electronically recorded and such records certified and filed as provided in this subsection.

Subsec. (f). Pub. L. 89-167 provided for payment by United States of fees for transcripts furnished in proceedings brought under section 2255 of this title to persons permitted to sue or appeal in forma pauperis if trial judge or a circuit judge certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal.

1960 - Subsec. (e). Pub. L. 86-568 increased maximum annual salary from \$7,095 to \$7,630.

1958 - Subsec. (a). Pub. L. 85-508 struck out provisions which related to District Court for Territory of Alaska. See section 81A of this title which establishes a United States District Court for

State of Alaska.

Subsec. (e). Pub. L. 85-462 increased maximum annual salary from \$6,450 to \$7,095.

1955 - Subsec. (e). Act June 28, 1955, increased maximum annual salary from \$6,000 to \$6,450.

1951 - Subsec. (a). Act Oct. 31, 1951, inserted reference to District Court of Guam in first par.

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 1960 AMENDMENT

Amendment by Pub. L. 86-568 effective on the first day of the first pay period which begins on or after July 1, 1960, see section 122 of Pub. L. 86-568.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-508 effective Jan. 3, 1959, on admission of Alaska into the Union pursuant to Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, see Pub. L. 85-508, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

SAVINGS PROVISION

Section 401(b) of Pub. L. 97-164 provided that: "The regulations promulgated by the Judicial Conference pursuant to subsection (b) of section 753 of title 28, as amended by subsection (a) of this section, shall not take effect before one year after the effective date of this Act [Oct. 1, 1982]. During the one-year period after the date of the enactment of this Act [Apr. 2, 1982], the Judicial Conference shall experiment with the different methods of recording court proceedings. Prior to the effective date of such regulations, the law and regulations in effect the day before the date of

enactment of this Act shall remain in full force and effect."

-TRANS-

TERMINATION OF UNITED STATES DISTRICT COURT FOR THE DISTRICT OF THE CANAL ZONE

For termination of the United States District Court for the District of the Canal Zone at end of the "transition period", being the 30-month period beginning Oct. 1, 1979, and ending midnight Mar. 31, 1982, see Paragraph 5 of Article XI of the Panama Canal Treaty of 1977 and sections 2101 and 2201 to 2203 of Pub. L. 96-70, title II, Sept. 27, 1979, 93 Stat. 493, formerly classified to sections 3831 and 3841 to 3843, respectively, of Title 22, Foreign Relations and Intercourse.

-MISC3-

SALARY LIMITATION FOR COURT REPORTERS

1967 - Pub. L. 90-206, title II, Sec. 213(c), Dec. 16, 1967, 81 Stat. 635, inserted a new salary limitation for court reporters effective the first pay period which begins on or after Oct. 1, 1967, which reflected the respective applicable pay increases provided by section 202(a) of Pub. L. 90-206 in corresponding rates of compensation for particular officers and employees of the government.

1966 - Pub. L. 89-504, title II, Sec. 202(c), July 18, 1966, 80 Stat. 294, inserted a new salary limitation for court reporters effective the first pay period which begins on or after July 1, 1966, which reflected the respective applicable pay increases provided by section 102(a) of title I of Pub. L. 89-504 in corresponding rates of compensation for particular officers and employees of the government.

1965 - Pub. L. 89-301, Sec. 12(c), Oct. 29, 1965, 79 Stat. 1122, inserted a new salary limitation for court reporters which reflected the applicable pay increases provided by section 2(a) of

Pub. L. 89-301 in corresponding rates of compensation for particular government officers and employees.

1964 - Pub. L. 88-426, title IV, Sec. 402(c), Aug. 14, 1964, 78 Stat. 434, inserted a new salary limitation for court reporters which reflected the applicable pay increases provided by title I of Pub. L. 88-426 in corresponding rates of compensation for particular government officers and employees.

1962 - Pub. L. 87-793, title VI, Sec. 1004(c), Oct. 11, 1962, 76 Stat. 866, inserted a new salary limitation for court reporters effective for the pay period beginning on or after Oct. 11, 1962, and ending immediately prior to the first pay period beginning on or after Jan. 1, 1964, and provided for a second salary limitation effective for the first pay period beginning on or after Jan. 1, 1964, which reflected applicable pay increases provided by title II of Pub. L. 87-793 in corresponding rates of compensation for particular government officers and employees.

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 775 of this title.

-FOOTNOTE-

(!1) So in original. Probably should be "or as".

-End-

-CITE-

28 USC Sec. 1746

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART V - PROCEDURE
CHAPTER 115 - EVIDENCE; DOCUMENTARY

-HEAD-

Sec. 1746. Unsworn declarations under penalty of perjury

-STATUTE-

Wherever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form:

(1) If executed without the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date).

(SIGNATURE)".

(2) If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date).

(SIGNATURE)".

-SOURCE- (Added Pub. L. 94-550, Sec. 1(a), Oct. 18, 1976, 90 Stat. 2534.)

-MISC1- PRIOR PROVISIONS

A prior section 1746 was renumbered section 1745 of this title.

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 8 sections 1183a, 1225, 1357; title 10 section 931; title 18 sections 152, 1546, 1621, 1623; title 25 section 399.

-End-

-CITE-

28 USC CHAPTER 131 - RULES OF COURTS

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART V - PROCEDURE
CHAPTER 131 - RULES OF COURTS

-HEAD-

CHAPTER 131 - RULES OF COURTS

-MISC1-

Sec.

- 2071. Rule-making power generally.
- 2072. Rules of procedure and evidence; power to prescribe.
- 2073. Rules of procedure and evidence; method of prescribing.
- 2074. Rules of procedure and evidence; submission to Congress; effective date.
- 2075. Bankruptcy rules.
- [2076. Repealed.]
- 2077. Publication of rules; advisory committees.

AMENDMENTS

1988 - Pub. L. 100-702, title IV, Sec. 401(d), Nov. 19, 1988, 102 Stat. 4650, added items 2072 to 2075 and struck out former items 2072 "Rules of civil procedure", 2075 "Bankruptcy rules", and 2076 "Rules of evidence".

1982 - Pub. L. 97-164, title II, Sec. 208(b), Apr. 2, 1982, 96 Stat. 55, added item 2077.

1975 - Pub. L. 93-595, Sec. 2(a)(2), Jan. 2, 1975, 88 Stat. 1949, added item 2076.

1966 - Pub. L. 89-773, Sec. 3, Nov. 6, 1966, 80 Stat. 1323, struck out "for district courts" in item 2072 and struck out items 2073 and 2074.

1964 - Pub. L. 88-623, Sec. 2, Oct. 3, 1964, 78 Stat. 1001, added item 2075.

1954 - Act July 27, 1954, ch. 583, Sec. 2, 68 Stat. 567, added item 2074.

-SECRETF-

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 652, 653, 654 of this title.

-End-

-CITE-

28 USC Sec. 2071

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART V - PROCEDURE
CHAPTER 131 - RULES OF COURTS

-HEAD-

Sec. 2071. Rule-making power generally

-STATUTE-

(a) The Supreme Court and all courts established by Act of Congress may from time to time prescribe rules for the conduct of their business. Such rules shall be consistent with Acts of Congress and rules of practice and procedure prescribed under section 2072 of this title.

(b) Any rule prescribed by a court, other than the Supreme Court, under subsection (a) shall be prescribed only after giving appropriate public notice and an opportunity for comment. Such rule shall take effect upon the date specified by the prescribing court and shall have such effect on pending proceedings as the prescribing court may order.

(c)(1) A rule of a district court prescribed under subsection (a) shall remain in effect unless modified or abrogated by the judicial council of the relevant circuit.

(2) Any other rule prescribed by a court other than the Supreme Court under subsection (a) shall remain in effect unless modified or abrogated by the Judicial Conference.

(d) Copies of rules prescribed under subsection (a) by a district court shall be furnished to the judicial council, and copies of all rules prescribed by a court other than the Supreme Court under subsection (a) shall be furnished to the Director of the Administrative Office of the United States Courts and made available to the public.

(e) If the prescribing court determines that there is an immediate need for a rule, such court may proceed under this section without public notice and opportunity for comment, but such court shall promptly thereafter afford such notice and opportunity for comment.

(f) No rule may be prescribed by a district court other than under this section.

-SOURCE-

(June 25, 1948, ch. 646, 62 Stat. 961; May 24, 1949, ch. 139, Sec. 102, 63 Stat. 104; Pub. L. 100-702, title IV, Sec. 403(a)(1), Nov. 19, 1988, 102 Stat. 4650.)

-MISC1-

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 28, U.S.C., 1940 ed., Secs. 219, 263, 296, 307, 723, 731, and 761, and section 1111 of title 26, U.S.C., 1940 ed., Internal Revenue Code (R.S. Secs. 913, 918; Mar. 3, 1887, ch. 359, Sec. 4, 24 Stat. 506; Mar. 3, 1911, ch. 231, Secs. 122, 157, 194, 291, 297, 36 Stat. 1132, 1139, 1145, 1167, 1168; Mar. 3, 1911, ch. 231, Sec. 187(a), as added Oct. 10, 1940, ch. 843, Sec. 1, 54 Stat. 1101; Feb. 13, 1925, ch. 229, Sec. 13, 43 Stat. 941; Mar. 2, 1929, ch. 488, Sec. 1, 45 Stat. 1475; Feb. 10, 1939, ch. 2, Sec. 1111, 53 Stat. 160; Oct. 21, 1942, ch. 619, title V, Sec. 504(a), (c), 56 Stat. 957).

Sections 219, 263, 296, 307, 723, and 731 of title 28, U.S.C., 1940 ed., gave specified courts, other than the Supreme Court, power to make rules. Section 761 of such title related to rules established in the district courts and Court of Claims. Section 1111 of title 26, U.S.C., 1940 ed., related to Tax Court. This section consolidates all such provisions. For other provisions of such sections, see Distribution Table.

Recognition by Congress of the broad rule-making power of the courts will make it possible for the courts to prescribe complete and uniform modes of procedure, and alleviate, at least in part, the necessity of searching in two places, namely in the Acts of Congress and in the rules of the courts, for procedural requisites.

Former Attorney General Cummings recently said: "Legislative bodies have neither the time to inquire objectively into the details of judicial procedure nor the opportunity to determine the necessity for amendment or change. Frequently such legislation has been enacted for the purpose of meeting particular problems or supposed difficulties, but the results have usually been confusing or otherwise unsatisfactory. Comprehensive action has been lacking for the obvious reason that the professional nature of the task would leave the legislature little time for matters of substance and statesmanship. It often happened that an admitted need for change, even in limited areas, could not be secured." - *The New Criminal Rules - Another Triumph of the Democratic Process*. American Bar Association Journal, May 1945.

Provisions of sections 263 and 296 of title 28, U.S.C., 1940 ed., authorizing the Court of Claims and Customs Court to punish for contempt, were omitted as covered by H. R. 1600, Sec. 401, 80th Congress, for revision of the Criminal Code.

Provisions of section 1111 of title 26, U.S.C., 1940 ed., making applicable to Tax Court Proceedings "the rules of evidence applicable in the courts of the District of Columbia in the type of proceeding which, prior to Sept. 16, 1938, were within the jurisdiction of the courts of equity of said District," were omitted as unnecessary and inconsistent with other provisions of law relating to the Federal courts. The rules of evidence in Tax Court proceedings are the same as those which apply to civil

procedure in other courts. See *Dempster Mill. Mfg. Co. v. Burnet*, 1931, 46 F.2d 604, 60 App.D.C. 23.

For rule-making power of the Supreme Court in copyright infringement actions, see section 25(e) of title 17, U.S.C., 1940 ed., Copyrights. See, also, section 205(a) of title 11, U.S.C., 1940 ed., Bankruptcy, authorizing the Supreme Court to promulgate rules relating to service of process in railroad reorganization proceedings.

SENATE REVISION AMENDMENT

By Senate amendment, all provisions relating to the Tax Court were eliminated. Therefore, section 1111 of Title 26, U.S.C., Internal Revenue Code, was not one of the sources of this section as finally enacted. However, no change in the text of this section was necessary. See 80th Congress Senate Report No. 1559.

1949 ACT

This amendment clarifies section 2071 of title 28, U.S.C., by giving express recognition to the power of the Supreme Court to prescribe its own rules and by giving a better description of its procedural rules.

AMENDMENTS

1988 - Pub. L. 100-702 designated existing provisions as subsec. (a), substituted "under section 2072 of this title" for "by the Supreme Court", and added subsecs. (b) to (f).

1949 - Act May 24, 1949, expressed recognition to the Supreme Court's power to prescribe its own rules and give a better description of its procedural rules.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 407 of title IV of Pub. L. 100-702 provided that: "This title [enacting sections 2072 to 2074 of this title, amending this section, sections 331, 332, 372, 604, 636, and 2077 of this title, section 460n-8 of Title 16, Conservation, and section 3402 of Title 18, Crimes and Criminal Procedure, repealing former section 2072 and section 2076 of this title and sections 3771 and 3772 of Title

18, and enacting provisions set out as notes under this section] shall take effect on December 1, 1988."

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 97-462, Sec. 4, Jan. 12, 1983, 96 Stat. 2530, provided that: "The amendments made by this Act [enacting provisions set out as notes below, amending Rule 4 of the Federal Rules of Civil Procedure, set out in the Appendix to this title, adding Form 18-A in the Appendix of Forms, and amending section 951 of Title 18, Crimes and Criminal Procedure] shall take effect 45 days after the enactment of this Act [Jan. 12, 1983]."

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 97-462, Sec. 1, Jan. 12, 1983, 96 Stat. 2527, provided: "That this Act [enacting provisions set out as notes below, amending Rule 4 of the Federal Rules of Civil Procedure, set out in the Appendix to this title, adding Form 18-A in the Appendix of Forms, and amending section 951 of Title 18, Crimes and Criminal Procedure] may be cited as the 'Federal Rules of Civil Procedure Amendments Act of 1982'."

SAVINGS PROVISION

Section 406 of title IV of Pub. L. 100-702 provided that: "The rules prescribed in accordance with law before the effective date of this title [Dec. 1, 1988] and in effect on the date of such effective date shall remain in force until changed pursuant to the law as amended by this title [see Effective Date of 1988 Amendment note above]."

TAX COURT RULEMAKING NOT AFFECTED

Section 405 of title IV of Pub. L. 100-702 provided that: "The amendments made by this title [see Effective Date of 1988 Amendment note above] shall not affect the authority of the Tax Court to prescribe rules under section 7453 of the Internal Revenue Code of 1986 [26 U.S.C. 7453]."

ADMIRALTY RULES

The Rules of Practice in Admiralty and Maritime Cases, promulgated by the Supreme Court on Dec. 20, 1920, effective Mar. 7, 1921, as revised, amended, and supplemented, were rescinded, effective July 1, 1966, in accordance with the general unification of civil and admiralty procedure which became effective July 1, 1966. Provision for certain distinctly maritime remedies were preserved however in the Supplemental Rules for Certain Admiralty and Maritime Claims, rules A to F, Federal Rules of Civil Procedure, Appendix to this title.

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 331, 332, 604, 651, 652, 653, 654, 657, 2077 of this title; title 42 section 300aa-12.

-End-

-CITE-

28 USC Sec. 2072

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART V - PROCEDURE
CHAPTER 131 - RULES OF COURTS

-HEAD-

Sec. 2072. Rules of procedure and evidence; power to prescribe

-STATUTE-

(a) The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases in the United States district courts (including proceedings before magistrate judges thereof) and courts of appeals.

(b) Such rules shall not abridge, enlarge or modify any substantive right. All laws in conflict with such rules shall be of

no further force or effect after such rules have taken effect.

(c) Such rules may define when a ruling of a district court is final for the purposes of appeal under section 1291 of this title.

-SOURCE-

(Added Pub. L. 100-702, title IV, Sec. 401(a), Nov. 19, 1988, 102 Stat. 4648; amended Pub. L. 101-650, title III, Secs. 315, 321, Dec. 1, 1990, 104 Stat. 5115, 5117.)

-MISC1-

PRIOR PROVISIONS

A prior section 2072, acts June 25, 1948, ch. 646, 62 Stat. 961; May 24, 1949, ch. 139, Sec. 103, 63 Stat. 104; July 18, 1949, ch. 343, Sec. 2, 63 Stat. 446; May 10, 1950, ch. 174, Sec. 2, 64 Stat. 158; July 7, 1958, Pub. L. 85-508, Sec. 12(m), 72 Stat. 348; Nov. 6, 1966, Pub. L. 89-773, Sec. 1, 80 Stat. 1323, authorized the Supreme Court to prescribe rules of civil procedure, prior to repeal by Pub. L. 100-702, Secs. 401(a), 407, effective Dec. 1, 1988.

AMENDMENTS

1990 - Subsec. (c). Pub. L. 101-650 added subsec. (c).

-CHANGE-

CHANGE OF NAME

Words "magistrate judges" substituted for "magistrates" in subsec. (a) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title.

-MISC2-

EFFECTIVE DATE

Section effective Dec. 1, 1988, see section 407 of Pub. L. 100-702, set out as an Effective Date of 1988 Amendment note under section 2071 of this title.

APPLICABILITY TO VIRGIN ISLANDS

Rules of civil procedure promulgated under this section as applicable to the District Court of the Virgin Islands, see section 1615 of Title 48, Territories and Insular Possessions.

ADMIRALTY RULES

The Rules of Practice in Admiralty and Maritime Cases, promulgated by the Supreme Court on Dec. 20, 1920, effective Mar. 7, 1921, as revised, amended, and supplemented, were rescinded, effective July 1, 1966, in accordance with the general unification of civil and admiralty procedure which became effective July 1, 1966. Provision for certain distinctly maritime remedies were preserved however, in the Supplemental Rules for Certain Admiralty and Maritime Claims, Rules A to F, Federal Rules of Civil Procedure, Appendix to this title.

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 332, 636, 1292, 2071, 2073, 2074, 2112 of this title; title 26 section 7482; title 29 section 160; title 38 section 7292.

-End-

-CITE-

28 USC Sec. 2073

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART V - PROCEDURE
CHAPTER 131 - RULES OF COURTS

-HEAD-

Sec. 2073. Rules of procedure and evidence; method of prescribing

-STATUTE-

(a)(1) The Judicial Conference shall prescribe and publish the procedures for the consideration of proposed rules under this section.

(2) The Judicial Conference may authorize the appointment of committees to assist the Conference by recommending rules to be prescribed under sections 2072 and 2075 of this title. Each such committee shall consist of members of the bench and the professional bar, and trial and appellate judges.

(b) The Judicial Conference shall authorize the appointment of a standing committee on rules of practice, procedure, and evidence under subsection (a) of this section. Such standing committee shall review each recommendation of any other committees so appointed and recommend to the Judicial Conference rules of practice, procedure, and evidence and such changes in rules proposed by a committee appointed under subsection (a)(2) of this section as may be necessary to maintain consistency and otherwise promote the interest of justice.

(c)(1) Each meeting for the transaction of business under this chapter by any committee appointed under this section shall be open to the public, except when the committee so meeting, in open session and with a majority present, determines that it is in the public interest that all or part of the remainder of the meeting on that day shall be closed to the public, and states the reason for so closing the meeting. Minutes of each meeting for the transaction of business under this chapter shall be maintained by the committee and made available to the public, except that any portion of such minutes, relating to a closed meeting and made available to the public, may contain such deletions as may be necessary to avoid frustrating the purposes of closing the meeting.

(2) Any meeting for the transaction of business under this chapter, by a committee appointed under this section, shall be preceded by sufficient notice to enable all interested persons to attend.

(d) In making a recommendation under this section or under section 2072 or 2075, the body making that recommendation shall provide a proposed rule, an explanatory note on the rule, and a

written report explaining the body's action, including any minority or other separate views.

(e) Failure to comply with this section does not invalidate a rule prescribed under section 2072 or 2075 of this title.

-SOURCE-

(Added Pub. L. 100-702, title IV, Sec. 401(a), Nov. 19, 1988, 102 Stat. 4649; amended Pub. L. 103-394, title I, Sec. 104(e), Oct. 22, 1994, 108 Stat. 4110.)

-MISC1-

PRIOR PROVISIONS

A prior section 2073, acts June 25, 1948, ch. 646, 62 Stat. 961; May 24, 1949, ch. 139, Sec. 104, 63 Stat. 104; May 10, 1950, ch. 174, Sec. 3, 64 Stat. 158, empowered the Supreme Court to prescribe, by general rules, the practice and procedure in admiralty and maritime cases in the district courts, prior to repeal by Pub. L. 89-773, Sec. 2, Nov. 6, 1966, 80 Stat. 1323.

AMENDMENTS

1994 - Subsec. (a)(2). Pub. L. 103-394, Sec. 104(e)(1), substituted "sections 2072 and 2075" for "section 2072".

Subsecs. (d), (e). Pub. L. 103-394, Sec. 104(e)(2), inserted "or 2075" after "2072".

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

Section effective Dec. 1, 1988, see section 407 of Pub. L. 100-702, set out as an Effective Date of 1988 Amendment note under section 2071 of this title.

-End-

-CITE-

28 USC Sec. 2074

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART V - PROCEDURE
CHAPTER 131 - RULES OF COURTS

-HEAD-

Sec. 2074. Rules of procedure and evidence; submission to Congress;
effective date

-STATUTE-

(a) The Supreme Court shall transmit to the Congress not later than May 1 of the year in which a rule prescribed under section 2072 is to become effective a copy of the proposed rule. Such rule shall take effect no earlier than December 1 of the year in which such rule is so transmitted unless otherwise provided by law. The Supreme Court may fix the extent such rule shall apply to proceedings then pending, except that the Supreme Court shall not require the application of such rule to further proceedings then pending to the extent that, in the opinion of the court in which such proceedings are pending, the application of such rule in such proceedings would not be feasible or would work injustice, in which event the former rule applies.

(b) Any such rule creating, abolishing, or modifying an evidentiary privilege shall have no force or effect unless approved by Act of Congress.

-SOURCE-

(Added Pub. L. 100-702, title IV, Sec. 401(a), Nov. 19, 1988, 102 Stat. 4649.)

-MISC1-

PRIOR PROVISIONS

A prior section 2074, act July 27, 1954, ch. 583, Sec. 1, 68 Stat. 567, empowered the Supreme Court to prescribe rules for review of decisions of the Tax Court of the United States, prior to repeal by Pub. L. 89-773, Sec. 2, Nov. 6, 1966, 80 Stat. 1323.

EFFECTIVE DATE

Section effective Dec. 1, 1988, see section 407 of Pub. L. 100-702, set out as an Effective Date of 1988 Amendment note under section 2071 of this title.

MODIFICATION OF AMENDMENTS TO FEDERAL RULES OF CRIMINAL PROCEDURE

PROPOSED APRIL 29, 2002; EFFECTIVE DATE

Pub. L. 107-273, div. C, title I, Sec. 11019(a), Nov. 2, 2002, 116 Stat. 1825, provided that: "The proposed amendments to the Federal Rules of Criminal Procedure that are embraced by an order entered by the Supreme Court of the United States on April 29, 2002, shall take effect on December 1, 2002, as otherwise provided by law, but with the amendments made in subsection (b) [amending Rule 16 of the Federal Rules of Criminal Procedure]."

MODIFICATION OF AMENDMENTS TO FEDERAL RULES OF EVIDENCE PROPOSED

APRIL 29, 1994; EFFECTIVE DATE

Pub. L. 103-322, title IV, Sec. 40141, Sept. 13, 1994, 108 Stat. 1918, provided that:

"(a) Modification of Proposed Amendment. - The proposed amendments to the Federal Rules of Evidence that are embraced by an order entered by the Supreme Court of the United States on April 29, 1994, shall take effect on December 1, 1994, as otherwise provided by law, but with the amendment made by subsection (b).

"(b) Rule. - [Amended Rule 412 of the Federal Rules of Evidence.]

"(c) Technical Amendment. - [Amended table of contents for the Federal Rules of Evidence.]"

MODIFICATION OF AMENDMENTS TO FEDERAL RULES OF
CRIMINAL PROCEDURE

PROPOSED APRIL 29, 1994; EFFECTIVE DATE

Pub. L. 103-322, title XXIII, Sec. 230101, Sept. 13, 1994, 108
Stat. 2077, provided that:

"(a) Modification of Proposed Amendments. - The proposed amendments to the Federal Rules of Criminal Procedure which are embraced by an order entered by the Supreme Court of the United States on April 29, 1994, shall take effect on December 1, 1994, as otherwise provided by law, but with the following amendments:

"(b) In General. - [Amended Rule 32 of the Federal Rules of Criminal Procedure.]

"(c) Effective Date. - The amendments made by subsection (b) shall become effective on December 1, 1994."

AMENDMENTS TO CIVIL RULES PROPOSED APRIL 30, 1991

Pub. L. 102-198, Sec. 11, Dec. 9, 1991, 105 Stat. 1626, provided that:

"(a) Technical Amendment. - Rule 15(c)(3) of the Federal Rules of Civil Procedure for the United States Courts, as transmitted to the Congress by the Supreme Court pursuant to section 2074 of title 28, United States Code, to become effective on December 1, 1991, is amended by striking 'Rule 4(m)' and inserting 'Rule 4(j)'.

"(b) Amendment to Forms. - Form 1-A, Notice of Lawsuit and Request for Waiver of Service of Summons, and Form 1-B, Waiver of Service of Summons, included in the transmittal by the Supreme Court described in subsection (a), shall not be effective and Form 18-A, Notice and Acknowledgment for Service by Mail, abrogated by the Supreme Court in such transmittal, effective December 1, 1991, shall continue in effect on or after that date."

AMENDMENTS TO CIVIL RULES PROPOSED APRIL 28, 1982

Pub. L. 97-462, Sec. 5, Jan. 12, 1983, 96 Stat. 2530, provided that: "The amendments to the Federal Rules of Civil Procedure [Rule 4], the effective date of which was delayed by the Act entitled 'An Act to delay the effective date of proposed amendments to rule 4 of

the Federal Rules of Civil Procedure', approved August 2, 1982 (96 Stat. 246) [Pub. L. 97-227, see below], shall not take effect."

Pub. L. 97-227, Aug. 2, 1982, 96 Stat. 246, provided: "That notwithstanding the provisions of section 2072 of title 28, United States Code, the amendments to rule 4 of the Federal Rules of Civil Procedure as proposed by the Supreme Court of the United States and transmitted to the Congress by the Chief Justice on April 28, 1982, shall take effect on October 1, 1983, unless previously approved, disapproved, or modified by Act of Congress.

"Sec. 2. This Act shall be effective as of August 1, 1982, but shall not apply to the service of process that takes place between August 1, 1982, and the date of enactment of this Act [Aug. 2, 1982]."

AMENDMENTS TO CRIMINAL RULES AND RULES OF EVIDENCE PROPOSED APRIL

30, 1979; POSTPONEMENT OF EFFECTIVE DATE

Pub. L. 96-42, July 31, 1979, 93 Stat. 326, provided: "That notwithstanding any provision of section 3771 or 3772 of title 18 of the United States Code or of section 2072, 2075, or 2076 of title 28 of the United States Code to the contrary -

"(1) the amendments proposed by the United States Supreme Court and transmitted by the Chief Justice on April 30, 1979, to the Federal Rules of Criminal Procedure affecting rules 11(e)(6), 17(h), 32(f), and 44(c), and adding new rules 26.2 and 32.1, and the amendment so proposed and transmitted to the Federal Rules of Evidence affecting rule 410, shall not take effect until December 1, 1980, or until and then only to the extent approved by Act of Congress, whichever is earlier; and

"(2) the amendment proposed by the United States Supreme Court and transmitted by the Chief Justice on April 30, 1979, affecting rule 40 of the Federal Rules of Criminal Procedure shall take effect on August 1, 1979, with the following amendments:

"(A) In the matter designated as paragraph (1) of subdivision (d), strike out 'in accordance with Rule 32.1(a)'.

"(B) In the matter designated as paragraph (2) of subdivision (d), strike out 'in accordance with Rule 32.1(a)(1)'."

APPROVAL AND EFFECTIVE DATE OF RULES GOVERNING
SECTION 2254 CASES

AND SECTION 2255 PROCEEDINGS FOR UNITED STATES
DISTRICT COURTS

Pub. L. 94-426, Sec. 1, Sept. 28, 1976, 90 Stat. 1334, provided:

"That the rules governing section 2254 cases in the United States district courts and the rules governing section 2255 proceedings for the United States district courts, as proposed by the United States Supreme Court, which were delayed by the Act entitled 'An Act to delay the effective date of certain proposed amendments to the Federal Rules of Criminal Procedure and certain other rules promulgated by the United States Supreme Court' (Public Law 94-349), are approved with the amendments set forth in section 2 of this Act and shall take effect as so amended, with respect to petitions under section 2254 and motions under section 2255 of title 28 of the United States Code filed on or after February 1, 1977."

POSTPONEMENT OF EFFECTIVE DATE OF PROPOSED RULES
AND FORMS

GOVERNING PROCEEDINGS UNDER SECTIONS 2254 AND 2255 OF
THIS TITLE

Pub. L. 94-349, Sec. 2, July 8, 1976, 90 Stat. 822, provided:

"That, notwithstanding the provisions of section 2072 of title 28 of the United States Code, the rules and forms governing section 2254 [section 2254 of this title] cases in the United States district courts and the rules and forms governing section 2255 [section 2255 of this title] proceedings in the United States district courts which are embraced by the order entered by the United States Supreme Court on April 26, 1976, and which were transmitted to the Congress on or about April 26, 1976, shall not take effect until thirty days after the adjournment sine die of the 94th Congress, or until and to the extent approved by Act of Congress, whichever is earlier."

APPROVAL AND EFFECTIVE DATE OF AMENDMENTS PROPOSED
NOVEMBER 20,

1972 AND DECEMBER 18, 1972

Pub. L. 93-595, Sec. 3, Jan. 2, 1975, 88 Stat. 1949, provided that: "The Congress expressly approves the amendments to the Federal Rules of Civil Procedure [Rules 30(c), 32(c), 43, and 44.1] and the amendments to the Federal Rules of Criminal Procedure [Rules 26, 26.1, and 28], which are embraced by the orders entered by the Supreme Court of the United States on November 20, 1972, and December 18, 1972, and such amendments shall take effect on the one hundred and eightieth day beginning after the date of the enactment of this Act [Jan. 2, 1975]."

CONGRESSIONAL APPROVAL REQUIREMENT FOR PROPOSED
RULES OF EVIDENCE

FOR UNITED STATES COURTS AND AMENDMENTS TO FEDERAL
RULES OF CIVIL

PROCEDURE AND CRIMINAL PROCEDURE; SUSPENSION OF
EFFECTIVENESS OF

SUCH RULES

Pub. L. 93-12, Mar. 30, 1973, 87 Stat. 9, provided: "That notwithstanding any other provisions of law, the Rules of Evidence for United States Courts and Magistrates, the Amendments to the Federal Rules of Civil Procedure, and the Amendments to the Federal Rules of Criminal Procedure, which are embraced by the orders entered by the Supreme Court of the United States on Monday, November 20, 1972, and Monday, December 18, 1972, shall have no force or effect except to the extent, and with such amendments, as they may be expressly approved by the Act of Congress."

-End-

-CITE-

28 USC Sec. 2075

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART V - PROCEDURE
CHAPTER 131 - RULES OF COURTS

-HEAD-

Sec. 2075. Bankruptcy rules

-STATUTE-

The Supreme Court shall have the power to prescribe by general rules, the forms of process, writs, pleadings, and motions, and the practice and procedure in cases under title 11.

Such rules shall not abridge, enlarge, or modify any substantive right.

The Supreme Court shall transmit to Congress not later than May 1 of the year in which a rule prescribed under this section is to become effective a copy of the proposed rule. The rule shall take effect no earlier than December 1 of the year in which it is transmitted to Congress unless otherwise provided by law.

-SOURCE-

(Added Pub. L. 88-623, Sec. 1, Oct. 3, 1964, 78 Stat. 1001; amended Pub. L. 95-598, title II, Sec. 247, Nov. 6, 1978, 92 Stat. 2672; Pub. L. 103-394, title I, Sec. 104(f), Oct. 22, 1994, 108 Stat. 4110.)

-MISC1-

AMENDMENTS

1994 - Pub. L. 103-394 amended third par. generally. Prior to amendment, third par. read as follows: "Such rules shall not take effect until they have been reported to Congress by the Chief Justice at or after the beginning of a regular session thereof but not later than the first day of May and until the expiration of ninety days after they have been thus reported."

1978 - Pub. L. 95-598 substituted "in cases under title 11" for "under the Bankruptcy Act" and struck out provisions directing that

all laws in conflict with bankruptcy rules be of no further force or effect after such rules have taken effect.

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 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Nov. 6, 1978, see section 402(d) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

RULES PROMULGATED BY SUPREME COURT

Pub. L. 98-353, title III, Sec. 320, July 10, 1984, 98 Stat. 357, provided that: "The Supreme Court shall prescribe general rules implementing the practice and procedure to be followed under section 707(b) of title 11, United States Code. Section 2075 of title 28, United States Code, shall apply with respect to the general rules prescribed under this section."

APPLICABILITY OF RULES TO CASES UNDER TITLE 11

Pub. L. 95-598, title IV, Sec. 405(d), Nov. 6, 1978, 92 Stat. 2685, provided that: "The rules prescribed under section 2075 of title 28 of the United States Code and in effect on September 30, 1979, shall apply to cases under title 11, to the extent not inconsistent with the amendments made by this Act, or with this Act [see Tables for complete classification of Pub. L. 95-598], until such rules are repealed or superseded by rules prescribed and effective under such section, as amended by section 248 of this Act."

ADDITIONAL RULEMAKING POWER

Pub. L. 95-598, title IV, Sec. 410, Nov. 6, 1978, 92 Stat. 2687, provided that: "The Supreme Court may issue such additional rules of procedure, consistent with Acts of Congress, as may be necessary

for the orderly transfer of functions and records and the orderly transition to the new bankruptcy court system created by this Act [see Tables for complete classification of Pub. L. 95-598]."

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2073 of this title.

-End-

-CITE-

28 USC Sec. 2076

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE

PART V - PROCEDURE

CHAPTER 131 - RULES OF COURTS

-HEAD-

[Sec. 2076. Repealed. Pub. L. 100-702, title IV, Sec. 401(c), Nov. 19, 1988, 102 Stat. 4650]

-MISC1-

Section, added Pub. L. 93-595, Sec. 2(a)(1), Jan. 2, 1975, 88 Stat. 1948; amended Pub. L. 94-149, Sec. 2, Dec. 12, 1975, 89 Stat. 806, authorized the Supreme Court to prescribe amendments to Federal Rules of Evidence. See sections 2072 to 2074 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 1, 1988, see section 407 of Pub. L. 100-702, set out as an Effective Date of 1988 Amendment note under section 2071 of this title.

-End-

-CITE-

28 USC Sec. 2077

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART V - PROCEDURE
CHAPTER 131 - RULES OF COURTS

-HEAD-

Sec. 2077. Publication of rules; advisory committees

-STATUTE-

(a) The rules for the conduct of the business of each court of appeals, including the operating procedures of such court, shall be published. Each court of appeals shall print or cause to be printed necessary copies of the rules. The Judicial Conference shall prescribe the fees for sales of copies under section 1913 of this title, but the Judicial Conference may provide for free distribution of copies to members of the bar of each court and to other interested persons.

(b) Each court, except the Supreme Court, that is authorized to prescribe rules of the conduct of such court's business under section 2071 of this title shall appoint an advisory committee for the study of the rules of practice and internal operating procedures of such court and, in the case of an advisory committee appointed by a court of appeals, of the rules of the judicial council of the circuit. The advisory committee shall make recommendations to the court concerning such rules and procedures. Members of the committee shall serve without compensation, but the Director may pay travel and transportation expenses in accordance with section 5703 of title 5.

-SOURCE-

(Added Pub. L. 97-164, title II, Sec. 208(a), Apr. 2, 1982, 96 Stat. 54; amended Pub. L. 100-702, title IV, Sec. 401(b), Nov. 19,

1988, 102 Stat. 4650; Pub. L. 101-650, title IV, Sec. 406, Dec. 1, 1990, 104 Stat. 5124.)

-MISC1-

AMENDMENTS

1990 - Subsec. (b). Pub. L. 101-650 inserted before period at end of first sentence "and, in the case of an advisory committee appointed by a court of appeals, of the rules of the judicial council of the circuit".

1988 - Subsec. (b). Pub. L. 100-702 substituted "Each court, except the Supreme Court, that is authorized to prescribe rules of the conduct of such court's business under section 2071 of this title shall appoint" for "Each court of appeals shall appoint" and "such court" for "the court of appeals".

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-650 effective 90 days after Dec. 1, 1990, see section 407 of Pub. L. 101-650, set out as a note under section 332 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-702 effective Dec. 1, 1988, see section 407 of Pub. L. 100-702, set out as a note under section 2071 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-