trict judges for the Southern District of California and one of the district judges for the Southern District of Texas.

1949—Subsecs. (c) to (e). Act Aug. 3, 1949, added subsecs. (c) to (e).

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–208 effective 120 days after Dec. 18, 1971, see section 3(f) of Pub. L. 92–208, set out as a note under section 98 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–3 effective on admission of Hawaii into the Union, see Effective Date of 1959 Amendment note set out under section 133 of this title. Admission of Hawaii into the Union was accomplished Aug. 21, 1959, upon issuance of Proc. No. 3309, Aug. 21, 1959, 25 F.R. 6868, 73 Stat. c74, as required by sections 1 and 7(c) of Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as notes preceding section 491 of Title 48, Territories and Insular Possessions.

TENURE AND SALARY RIGHTS OF JUDGES IN PUERTO RICO IN OFFICE ON SEPTEMBER 12, 1966

Section 4 of Pub. L. 89–571 provided that: ''The amendments made by this section to sections 134 and 373 of title 28, United States Code, shall not affect the tenure of office or right to continue to receive salary after resignation, retirement, or failure of reappointment of any district judge for the district of Puerto Rico who is in office on the date of enactment of this Act [Sept. 12, 1966].''

APPLICABILITY OF ORDERS UNDER 1954 AMENDMENT

Section 2(b)(13)(b) of act Feb. 10, 1954, provided: ''Orders made by the judicial councils of the circuits under the second sentence of subsection (c) of section 134 of Title 28, as amended by this section, determining that a specified district judge shall maintain his abode at or near a place or within an area which the council has theretofore designated for the abode of a district judge under the first sentence of such subsection, shall be applicable only to district judges appointed after the enactment of this act [Feb. 10, 1954].''

§ 135. Salaries of district judges

Each judge of a district court of the United States shall receive a salary at an annual rate determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351–361), as adjusted by section 461 of this title.

(June 25, 1948, ch. 646, 62 Stat. 897; Mar. 2, 1955, ch. 9, § 1(c), 69 Stat. 10; Pub. L. 88–426, title IV, § 403(c), Aug. 14, 1964, 78 Stat. 434; Pub. L. 94–82, title II, § 205(b)(3), Aug. 9, 1975, 89 Stat. 422.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 5, and District of Columbia Code, 1940 ed., § 11–302 (Mar. 3, 1911, ch. 231, § 2, 36 Stat. 1087; Feb. 25, 1919, ch. 29, § 1, 40 Stat. 1156; Dec. 13, 1926, ch. 6, 44 Stat. 919; May 17, 1932, ch. 190, 47 Stat. 158; July 31, 1946, ch. 704, § 1, 60 Stat. 716).

Section consolidates section 5 of title 28, U.S.C., 1940 ed., and section 11–302 of the District of Columbia Code, 1940 ed.

''Chief judge,'' in the District of Columbia, was substituted for ''Chief Justice'' which appeared in section 11–302 of the District of Columbia Code. (See reviser's note under section 136 of this title.)

Words ''to be paid in monthly installments'' were omitted, since the time of payment is a matter of administrative convenience. See 20 Comp. Gen. 834.

The provision of section 5 of title 28, U.S.C., 1940 ed., for salaries of judges of the district court of Alaska was omitted as covered by section 101 of Title 48, U.S.C., 1940 ed., Territories and Insular Possessions, as amended by a separate section in the bill to enact this revised title. The provision of said section for salary of the Virgin Islands district judge was omitted as covered by section 5a of title 28, U.S.C., 1940 ed., as amended by a separate section in the bill to enact this revised title. Such section 5a is recommended for transfer to title 48, U.S.C., 1940 ed., because of the dual nature of the Virgin Islands district court.

For salary of the district judge of Canal Zone district court, see section 1348 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions.

Changes were made in phraseology.

REFERENCES IN TEXT

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

AMENDMENTS

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

1964—Pub. L. 88–426 increased the salary of the district court judges from $22,500 to $30,000, and that of the chief judge of the District Court for the District of Columbia from $23,000 to $30,500.

1955—Act Mar. 2, 1955, increased the salaries of the district court judges from $15,000 to $22,500 a year and increased the salary of the chief judge of the District Court for the District of Columbia from $15,500 to $23,000 a year.

EFFECTIVE DATE OF 1964 AMENDMENT

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

EFFECTIVE DATE OF 1955 AMENDMENT

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

SALARY INCREASES

For adjustment of salaries of district judges under this section, see the executive order detailing the adjustment of certain rates of pay set out as a note under section 5332 of Title 5, Government Organization and Employees.

For prior year salary increases per the recommendation of the President, see Prior Salary Recommendations notes under section 358 of Title 2, The Congress.

For miscellaneous provisions dealing with adjustments of pay and limitations on use of funds to pay salaries in prior years, see notes under section 5318 of Title 5, Government Organization and Employees.

Salary of chief judge of District Court for District of Columbia increased from $10,500 to $15,500 a year, and salaries of all other district court judges increased from $10,000 to $15,000 a year by act July 31, 1946, ch. 704, § 1, 60 Stat. 716.

Salary of chief judge of District Court of District of Columbia increased from $7,500 to $10,500 a year, and salaries of all other district court judges increased from $7,500 to $10,000 a year by act Dec. 13, 1926, ch. 6, § 1, 44 Stat. 919.

Salaries of district court judges increased from $6,000 to $7,500 a year by act Feb. 25, 1919, ch. 29, § 1, 40 Stat. 1156.

Salaries of chief justice and associate justices of Supreme Court of District of Columbia, forerunner of District Court for District of Columbia, were set at $5,000 by act Mar. 3, 1901, ch. 854, § 1, 30 Stat. 1199, and increased to $7,500 a year by act Feb. 25, 1919, ch. 29, § 1, 40 Stat. 1156.

Salaries of district court judges set at $6,000 a year by Judicial Code of 1911, act Mar. 3, 1911, ch. 231, §1, 36 Stat. 1087.

§ 136. Chief judges; precedence of district judges

(a)(1) In any district having more than one district judge, the chief judge of the district shall be the district judge in regular active service who is senior in commission of those judges who—

(A) are sixty-four years of age or under;

(B) have served for one year or more as a district judge; and

(C) have not served previously as chief judge.

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

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

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

(B) Except as provided in subparagraph (C), a district judge acting as chief judge under subparagraph (A) or (B) of paragraph (2) shall serve until a judge has been appointed who meets the qualifications under paragraph (1).

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

(b) The chief judge shall have precedence and preside at any session which he attends.

Other district judges shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

(c) A judge whose commission extends over more than one district shall be junior to all district judges except in the district in which he resided at the time he entered upon the duties of his office.

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

(e) If a chief judge is temporarily unable to perform his duties as such, they shall be performed by the district judge in active service, present in the district and able and qualified to act, who is next in precedence.

(June 25, 1948, ch. 646, 62 Stat. 897; Oct. 31, 1951, ch. 655, §37, 65 Stat. 723; Pub. L. 85–593, §2, Aug. 6, 1958, 72 Stat. 497; Pub. L. 97–164, title II, §202, Apr. 2, 1982, 96 Stat. 52.)

Historical and Revision Notes

Based on title 28, U.S.C., 1940 ed., §375 and District of Columbia Code, 1940 ed., §11–301 (Mar. 3, 1901, ch. 854, §§60, 61, 31 Stat. 1199; Mar. 3, 1911, ch. 231, §260, 36 Stat. 1161; Mar. 3, 1911, ch. 231, §289, 32 Stat. 1167; Feb. 25, 1919, ch. 29, §6, 40 Stat. 1157; Dec. 20, 1928, ch. 41, 45 Stat. 1056; Mar. 1, 1929, ch. 419, 45 Stat. 1422; June 19, 1930, ch. 537, 46 Stat. 785; May 31, 1938, ch. 290, §5, 52 Stat. 584).

Section consolidates portions of section 375 of title 28, U.S.C., 1940 ed., and section 11–301 of the District of Columbia Code, 1940 ed. The provisions of said section 375 relating to resignation and retirement of judges, and appointment of court officers, are incorporated in sections 294, 371, and 756 of this title. Other provisions of said section 11–301 of the District of Columbia Code are incorporated in section 133 of this title.

Subsection (a), providing for a ''chief judge'' is new. Such term replaces the terms ''senior district judge,'' and ''Chief Justice'' of the District Court in the District of Columbia. It is employed in view of the great increase of administrative duties of such judge. The use of the term ''chief judge'' with respect to the District of Columbia will result in uniform nomenclature for all district courts. The district judges of that court have expressed approval of such designation.

The provision in said section 11–301 of the District of Columbia Code, 1940 ed., that the ''Chief Justice'' shall be appointed by the President, by and with the advice and consent of the Senate, was omitted for the purpose of establishing a uniform method of creating the position of chief judge in all districts. The District of Columbia is expressly made a judicial district by section 88 of this title.

Subsection (b) is new and conforms with similar provisions respecting associate justices of the Supreme Court and circuit judges in sections 4 and 45 of this title.

Subsection (c) is from the proviso in the second paragraph of section 375 of title 28, U.S.C., 1940 ed., which applied only in cases of appointment of court officers. Here it is made applicable to all district judges.

Subsections (d) and (e) are new, and conform with section 44 of this title relating to precedence of circuit judges.

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

Amendments

1982—Subsec. (a). Pub. L. 97–164, §202(a), designated existing first sentence of subsec. (a) as par. (1), substituted ''In any district having more than one district judge, the chief judge of the district shall be the district judge in regular active service who is senior in commission of those judges who—(A) are sixty-four years of age or under; (B) have served for one year or more as a district judge; and (C) have not served previously as chief judge'' for ''In each district having more than one judge the district judge in regular active service who is senior in commission and under seventy years of age shall be the chief judge of the district court'' in par. (1) as so designated, designated existing second sentence of subsec. (a) as par. (2)(A), substituted ''In any case in which no district judge meets the qualifications of paragraph (1), the youngest district judge in regular active service who is sixty-five years of age or over and who has served as district judge for one year or more shall act as the chief judge'' for ''If all the district judges in regular active service are seventy years of age or older the youngest shall act as chief judge until a judge has been appointed and qualified who is under seventy years of age, but a judge may not act as chief judge until he has served as a district judge for one year'' in par. (2)(A) as so designated, and added pars. (2)(B) and (3).