

of a law clerk, and requiring that only so much of that compensation as is in excess of compensation to which he would be entitled as a crier shall be deemed compensation of a law clerk for purposes of any limitation imposed by law upon aggregate salaries of law clerks and secretaries appointed by a district judge.

§ 756. Power to appoint

Whenever a majority of the district judges of any district court cannot agree upon the appointment of any officer of such court, the chief judge shall make such appointment.

(June 25, 1948, ch. 646, 62 Stat. 923.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 375 (Mar. 3, 1911, ch. 231, § 260, 36 Stat. 1161; Feb. 25, 1919, ch. 29, § 6, 40 Stat. 1157; Mar. 1, 1929, ch. 419, 45 Stat. 1422; May 11, 1944, ch. 192, §§ 1, 3, 58 Stat. 218, 219).

Only part of section 375 of title 28, U.S.C., 1940 ed., appears in this section. The remainder is incorporated in sections 136, 294 and 371 of this title.

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

Minor changes in phraseology were made.

[CHAPTER 50—OMITTED]

CODIFICATION

Chapter 50, consisting of sections 771 to 775, which was added by Pub. L. 95-598, title II, § 233(a), Nov. 6, 1978, 92 Stat. 2665, 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.

CHAPTER 51—UNITED STATES COURT OF FEDERAL CLAIMS

Sec.	
791.	Clerk.
[792, 793.	Repealed.]
794.	Law clerks and secretaries.
795.	Bailiffs and messengers.
796.	Reporting of court proceedings.
797.	Recall of retired judges.
798.	Places of holding court; appointment of special masters.

AMENDMENTS

1992—Pub. L. 102-572, title IX, § 902(a)(1), Oct. 29, 1992, 106 Stat. 4516, substituted "UNITED STATES COURT OF FEDERAL CLAIMS" for "UNITED STATES CLAIMS COURT" as chapter heading.

1984—Pub. L. 98-620, title IV, § 416(b), Nov. 8, 1984, 98 Stat. 3364, added item 798.

1982—Pub. L. 97-164, title I, § 121(b), (c)(2), (d)(2), (f)(2), (g)(2), Apr. 2, 1982, 96 Stat. 34-36, substituted "UNITED STATES CLAIMS COURT" for "COURT OF CLAIMS" as chapter heading and, in analysis of sections in the chapter, struck out item 792 "Commissioners" substituted "Law clerks and secretaries" for "Stenographers and clerical employees" in item 794, substituted "Bailiffs and messengers" for "Bailiff and messenger" in item 795, and substituted "judges" for "commissioners" in item 797.

1972—Pub. L. 92-375, § 1, Aug. 10, 1972, 86 Stat. 529, added item 797.

1970—Pub. L. 91-272, § 15(b), June 2, 1970, 84 Stat. 298, added item 796.

1954—Act Sept. 3, 1954, ch. 1263, § 40, 68 Stat. 1240, struck out item 793 "Reporter-commissioners; stenographers".

§ 791. Clerk

(a) The United States Court of Federal Claims may appoint a clerk, who shall be subject to re-

moval by the court. The clerk, with the approval of the court, may appoint necessary deputies and employees in such numbers as may be approved by the Director of the Administrative Office of the United States Courts. Such deputies and employees shall be subject to removal by the clerk with the approval of the court.

(b) The clerk shall pay into the Treasury all fees, costs and other moneys collected by him. He shall make returns thereof to the Director of the Administrative Office of the United States Courts under regulations prescribed by him.

(c) On the first day of every regular session of Congress, the clerk shall transmit to Congress a full and complete statement of all the judgments rendered by the court during the previous year, showing the dates and amounts thereof and the parties in whose favor they were rendered, together with a brief synopsis of the nature of the claims upon which they were rendered, and a statement of the costs taxed in each case.

(June 25, 1948, ch. 646, 62 Stat. 923; Pub. L. 97-164, title I, § 121(a), Apr. 2, 1982, 96 Stat. 34; Pub. L. 102-572, title IX, § 902(a)(1), Oct. 29, 1992, 106 Stat. 4516.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 244, 248, 283a and 289 (Mar. 3, 1911, ch. 231, §§ 139, 143, 183, 36 Stat. 1136, 1142; June 10, 1921, ch. 18, §§ 301, 302, 310, 42 Stat. 23, 25, Mar. 3, 1933, ch. 212, title II, § 19, 47 Stat. 1519; May 10, 1934, ch. 277, § 512(b), 48 Stat. 759).

This section consolidates a part of sections 244 and 248 with sections 283a and 289, all of title 28, U.S.C., 1940 ed.

Provisions in section 248 of title 28, U.S.C., 1940 ed., for distribution by the clerk of copies of the court's decisions is incorporated in section 415 of this title.

Certain provisions of section 244 of title 28, U.S.C., 1940 ed., relating to the bailiff and the chief messenger of the Court of Claims, and powers and duties of the clerk, his deputies and assistants, are incorporated in sections 795 and 956 of this title.

A provision in section 244 of title 28, U.S.C., 1940 ed., relating to the oath of the clerk of such court was omitted as covered by section 951 of this title.

Word "clerk" was substituted for "chief clerk" to harmonize with such designation of clerks of all other courts.

Provision that such officers shall be under the direction of the court in the performance of their duties was omitted as superfluous.

Provision in section 244 of title 28, U.S.C., 1940 ed., that the clerk and assistant shall be subject to removal by the Court was substituted for the grounds of misconduct or incapacity. This change is in harmony with like provisions as to the clerks of other courts.

Section 289 of title 28, U.S.C., 1940 ed., required the Attorney General to duplicate the reporting to Congress of judgments which are furnished by the clerk. The revised section eliminates such duplication by requiring the clerk to transmit the information to Congress.

Words "Director of the Administrative Office of the United States Courts" were substituted for "Attorney General," in view of the act of August 7, 1939, ch. 501, § 6, 53 Stat. 1226, 28 U.S.C., 1940 ed., following § 446.

As revised, this section is consistent with similar provisions as to clerks of district courts and the courts of appeals in chapters 47 and 49 of this title.

Changes in phraseology were made.

AMENDMENTS

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

1982—Subsec. (a). Pub. L. 97-164 substituted “The United States Claims Court may appoint a clerk, who shall be subject to removal by the court” for “The Court of Claims may appoint a clerk and an assistant clerk, each of whom shall be subject to removal by the court” and “The clerk, with the approval of the court, may appoint necessary deputies and employees in such numbers as may be approved by the Director of the Administrative Office of the United States Courts. Such deputies and employees shall be subject to removal by the clerk with the approval of the court” for “The court shall report any such removal and the cause thereof to Congress as soon as possible”.

EFFECTIVE DATE OF 1992 AMENDMENT

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

EFFECTIVE DATE OF 1982 AMENDMENT

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

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (c) of this section requiring transmittal to Congress of an annual statement relating to judgments rendered by the court, 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.

[§ 792. Repealed. Pub. L. 97-164, title I, § 121(b), Apr. 2, 1982, 96 Stat. 34]

Section, acts June 25, 1948, ch. 646, 62 Stat. 923; July 28, 1953, ch. 253, § 4(a), 67 Stat. 226; Sept. 3, 1954, ch. 1263, § 41, 68 Stat. 1240; Aug. 14, 1964, Pub. L. 88-426, title IV, § 403(h), 78 Stat. 434; Oct. 15, 1966, Pub. L. 89-681, § 3, 80 Stat. 959; Dec. 16, 1967, Pub. L. 90-206, title II, § 213(e), 81 Stat. 635; Aug. 9, 1975, Pub. L. 94-82, title II, § 205(b)(7), 89 Stat. 423; July 20, 1977, Pub. L. 95-69, § 3, 91 Stat. 274, provided for appointment by Court of Claims and compensation of sixteen commissioners.

EFFECTIVE DATE OF REPEAL

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

[§ 793. Repealed. July 28, 1953, ch. 253, § 6, 67 Stat. 226]

Section, act June 25, 1948, ch. 646, 62 Stat. 924, related to appointment of reporter-commissioners by Court of Claims and employment of stenographers therefor.

§ 794. Law clerks and secretaries

The judges of the United States Court of Federal Claims may appoint necessary law clerks and secretaries, in such numbers as the Judicial Conference of the United States may approve for district judges, subject to any limitation of the aggregate salaries of such employees which may be imposed by law. 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.

(June 25, 1948, ch. 646, 62 Stat. 924; Pub. L. 97-164, title I, § 121(c)(1), Apr. 2, 1982, 96 Stat. 34; Pub. L. 100-702, title X, § 1003(a)(3), Nov. 19, 1988, 102 Stat. 4665; Pub. L. 102-572, title IX, §§ 902(a)(1), 905, Oct. 29, 1992, 106 Stat. 4516, 4517.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 270 (Feb. 24, 1925, ch. 301, § 2, 43 Stat. 965; May 29, 1928, ch. 852, § 711, 45

Stat. 882; June 23, 1930, ch. 573, § 1, 46 Stat. 799; Oct. 16, 1941, ch. 443, 55 Stat. 741).

The first sentence of the revised section makes express provision for appointment of stenographers and necessary clerical employees.

Other provisions of section 270 of title 28, U.S.C., 1940 ed., are incorporated in sections 456 and 792 of this title.

Specific provision for \$5 per diem for stenographers is omitted as unnecessary and inconsistent with section 962 of this title. Travel and subsistence allowances of Government employees are governed by sections 822-833 of title 5, U.S.C., 1940 ed., Executive Departments and Government Officers and Employees.

Changes were made in phraseology.

AMENDMENTS

1992—Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court” and inserted “for district judges” after “may approve” in first sentence.

1988—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.”

1982—Pub. L. 97-164 substituted “Law clerks and secretaries” for “Stenographers and clerical employees” as section catchline and, in text, substituted “The judges of the United States Claims Court may appoint necessary law clerks and secretaries, in such numbers as the Judicial Conference of the United States may approve, subject to any limitation of the aggregate salaries of such employees which may be imposed by law” for “The Court of Claims shall appoint stenographers and other clerical employees in such numbers as may be necessary each of whom shall be subject to removal by the court”.

EFFECTIVE DATE OF 1992 AMENDMENT

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

EFFECTIVE DATE 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.

§ 795. Bailiffs and messengers

The chief judge of¹ United States Court of Federal Claims, with the approval of the court, may appoint necessary bailiffs and messengers, in such numbers as the Director of the Administrative Office of the United States Courts may approve, each of whom shall be subject to removal by the chief judge, with the approval of the court.

(June 25, 1948, ch. 646, 62 Stat. 924; Pub. L. 97-164, title I, § 121(d)(1), Apr. 2, 1982, 96 Stat. 35; Pub. L. 102-572, title IX, § 902(a)(1), Oct. 29, 1992, 106 Stat. 4516.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 244 (Mar. 3, 1911, ch. 231, § 139, 36 Stat. 1136).

The provision in section 244 of title 28, U.S.C., 1940 ed., that the bailiff should serve 4 years unless sooner removed by the court for cause, was changed by omitting the 4-year tenure and removal “for cause” requirement. As revised this section conforms with sections relating to the similar court officers.

Term “chief messenger” in section 244 of title 28, U.S.C., 1940 ed., was changed to “messenger” as the court has but one messenger.

¹ So in original. Probably should be “of the”.