

## EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-845 effective Jan. 2, 1963, see section 25 of Pub. L. 87-845, set out as a note under section 414 of this title.

**§ 1405. Creation or alteration of district or division**

Actions or proceedings pending at the time of the creation of a new district or division or transfer of a county or territory from one division or district to another may be tried in the district or division as it existed at the institution of the action or proceeding, or in the district or division so created or to which the county or territory is so transferred as the parties shall agree or the court direct.

(June 25, 1948, ch. 646, 62 Stat. 937.)

## HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §121 (Mar. 3, 1911, ch. 231, §59, 36 Stat. 1103).

Enforcement of liens in like circumstances is provided by section 1656 of this title.

Remainder of section 121 of title 28, U.S.C., 1940 ed., is incorporated in section 3240 of revised title 18, Crimes and Criminal Procedure (H.R. 1600, 80th Cong.). Changes were made in phraseology.

**§ 1406. Cure or waiver of defects**

(a) The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.

(b) Nothing in this chapter shall impair the jurisdiction of a district court of any matter involving a party who does not interpose timely and sufficient objection to the venue.

(c) As used in this section, the term "district court" includes the District Court of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands, and the term "district" includes the territorial jurisdiction of each such court.

(June 25, 1948, ch. 646, 62 Stat. 937; May 24, 1949, ch. 139, §81, 63 Stat. 101; Pub. L. 86-770, §1, Sept. 13, 1960, 74 Stat. 912; Pub. L. 87-845, §10, Oct. 18, 1962, 76A Stat. 699; Pub. L. 97-164, title I, §132, Apr. 2, 1982, 96 Stat. 39; Pub. L. 104-317, title VI, §610(b), Oct. 19, 1996, 110 Stat. 3860.)

## HISTORICAL AND REVISION NOTES

## 1948 ACT

Subsection (a) provides statutory sanction for transfer instead of dismissal, where venue is improperly laid.

Subsection (b) is declaratory of existing law. (See *Panama R.R. Co. v. Johnson*, 1924, 44 S.Ct. 391, 264 U.S. 375, 68 L.Ed. 748.) It makes clear the intent of Congress that venue provisions are not jurisdictional but may be waived.

## 1949 ACT

This section removes an ambiguity in section 1406(a) of title 28, U.S.C., by substituting "may" for "shall", thus making it clear that the court may decline to transfer a case brought in the wrong district under circumstances where it would not be in the interest of justice to make such transfer. [The amendment to section 1406(a) of this title described in this note was altered in the bill as enacted. See Cong. Rec., vol. 95, pt. 5, pp. 5826, 5827, 6283, 6284.]

## AMENDMENTS

1996—Subsec. (c). Pub. L. 104-317 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as fol-

lows: "As used in this section, 'district court' includes the United States District Court for the District of the Canal Zone; and 'district' includes the territorial jurisdiction of that court."

1982—Subsecs. (c), (d). Pub. L. 97-164 redesignated subsec. (d) as (c). Former subsec. (c), which provided that if a case within the exclusive jurisdiction of the Court of Claims were filed in a district court, the district court, if it were in the interest of justice, was required to transfer the case to the Court of Claims where the case would proceed as if it had been filed in the Court of Claims on the date that it was filed in the district court, was struck out.

1962—Subsec. (d). Pub. L. 87-845 added subsec. (d).

1960—Subsec. (c). Pub. L. 86-770 added subsec. (c).

1949—Subsec. (a). Act May 24, 1949, inserted "dismiss, or if it be in the interest of justice".

## EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-317 applicable to cases pending on Oct. 19, 1996, and to cases commenced on or after such date, see section 610(c) of Pub. L. 104-317, set out as a note under section 1404 of this title.

## EFFECTIVE DATE OF 1982 AMENDMENT

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

## EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-845 effective Jan. 2, 1962, see section 25 of Pub. L. 87-845, set out as a note under section 414 of this title.

## EFFECTIVE DATE OF 1960 AMENDMENT

Section 4 of Pub. L. 86-770 provided in part that: "The amendments made by sections 1 and 2 of this Act [adding subsec. (c) of this section and section 1506 of this title] shall apply to any case or proceeding pending on, or brought after, the date of enactment of this Act [Sept. 13, 1960] in the district courts or the Court of Claims."

**§ 1407. Multidistrict litigation**

(a) When civil actions involving one or more common questions of fact are pending in different districts, such actions may be transferred to any district for coordinated or consolidated pretrial proceedings. Such transfers shall be made by the judicial panel on multidistrict litigation authorized by this section upon its determination that transfers for such proceedings will be for the convenience of parties and witnesses and will promote the just and efficient conduct of such actions. Each action so transferred shall be remanded by the panel at or before the conclusion of such pretrial proceedings to the district from which it was transferred unless it shall have been previously terminated: *Provided, however*, That the panel may separate any claim, cross-claim, counter-claim, or third-party claim and remand any of such claims before the remainder of the action is remanded.

(b) Such coordinated or consolidated pretrial proceedings shall be conducted by a judge or judges to whom such actions are assigned by the judicial panel on multidistrict litigation. For this purpose, upon request of the panel, a circuit judge or a district judge may be designated and assigned temporarily for service in the transferee district by the Chief Justice of the United States or the chief judge of the circuit, as may be required, in accordance with the provisions of chapter 13 of this title. With the consent of the