

1954—Act July 30, 1954, ch. 648, §2(b), 68 Stat. 589, struck out “denied” in item 2402.

1949—Act May 24, 1949, ch. 139, §118, 63 Stat. 105, substituted “Interest” for “Interest on judgments against United States” in item 2411.

### § 2401. Time for commencing action against United States

(a) Except as provided by the Contract Disputes Act of 1978, every civil action commenced against the United States shall be barred unless the complaint is filed within six years after the right of action first accrues. The action of any person under legal disability or beyond the seas at the time the claim accrues may be commenced within three years after the disability ceases.

(b) A tort claim against the United States shall be forever barred unless it is presented in writing to the appropriate Federal agency within two years after such claim accrues or unless action is begun within six months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the agency to which it was presented.

(June 25, 1948, ch. 646, 62 Stat. 971; Apr. 25, 1949, ch. 92, §1, 63 Stat. 62; Pub. L. 86-238, §1(3), Sept. 8, 1959, 73 Stat. 472; Pub. L. 89-506, §7, July 18, 1966, 80 Stat. 307; Pub. L. 95-563, §14(b), Nov. 1, 1978, 92 Stat. 2389.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§41(20), 942 (Mar. 3, 1911, ch. 231, §24, part 20, 36 Stat. 1093; Nov. 23, 1921, ch. 136, §1310(c), 42 Stat. 311; June 2, 1924, 4:01 p.m., ch. 234, §1025(c), 43 Stat. 348; Feb. 24, 1925, ch. 309, 43 Stat. 972; Feb. 26, 1926, ch. 27, §§1122(c), 1200, 44 Stat. 121, 125; Aug. 2, 1946, ch. 753, §420, 60 Stat. 845).

Section consolidates provision in section 41(20) of title 28, U.S.C., 1940 ed., as to time limitation for bringing actions against the United States under section 1346(a) of this title, with section 942 of said title 28.

Words “or within one year after the date of enactment of this Act whichever is later”, in section 942 of title 28, U.S.C., 1940 ed., were omitted as executed.

Provisions of section 41(20) of title 28, U.S.C., 1940 ed., relating to jurisdiction of district courts and trial by the court of actions against the United States are the basis of sections 1346(a) and 2402 of this title.

Words in subsec. (a) of this revised section, “person under legal disability or beyond the seas at the time the claim accrues” were substituted for “claims of married women, first accrued during marriage, of persons under the age of twenty-one years, first accrued during minority, and of idiots, lunatics, insane persons, and persons beyond the seas at the time the claim accrued, entitled to the claim.” (See reviser’s note under section 2501 of this title.)

Words in section 41(20) of title 28, U.S.C., 1940 ed., “nor shall any of the said disabilities operate cumulatively” were omitted. (See reviser’s note under section 2501 of this title.)

A provision in section 41(20) of title 28, U.S.C., 1940 ed., that disabilities other than those specifically mentioned should not prevent any action from being barred was omitted as superfluous.

Subsection (b) of the revised section simplifies and restates said section 942 of title 28, U.S.C., 1940 ed., without change of substance.

Changes were made in phraseology.

#### SENATE REVISION AMENDMENT

Subsection (b) amended in the Senate to insert the 1 year limitation on the bringing of tort actions and to include the limitation upon the time in which tort

claims not exceeding \$1000 must be presented to the appropriate Federal agencies for administrative disposition. 80th Congress Senate Report No. 1559, Amendment No. 48.

#### REFERENCES IN TEXT

The Contract Disputes Act of 1978, referred to in subsec. (a), is Pub. L. 95-563, Nov. 1, 1978, 92 Stat. 2383, as amended, which is classified principally to chapter 9 (§601 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 41 and Tables.

#### AMENDMENTS

1978—Subsec. (a). Pub. L. 95-563 inserted Contract Disputes Act of 1978 exception.

1966—Subsec. (b). Pub. L. 89-506 struck out provisions dealing with a tort claim of \$2,500 or under as a special category of tort claim requiring preliminary administrative action and substituted provisions requiring presentation of all tort claims to the appropriate Federal agency in writing within two years after the claim accrues and commencement of an action within six months of the date of mailing of notice of final denial of the claim by the agency to which it was presented for provisions requiring commencement of an action within two years after the claim accrues.

1959—Subsec. (b). Pub. L. 86-238 substituted “\$2,500” for “\$1,000” in two places.

1949—Subsec. (b). Act Apr. 25, 1949, the time limitation on bringing tort actions from 1 year to 2 years.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-563 effective with respect to contracts entered into 120 days after Nov. 1, 1978, and, at the election of the contractor, with respect to any claim pending at such time before the contracting officer or initiated thereafter, see section 16 of Pub. L. 95-563, set out as an Effective Date note under section 601 of Title 41, Public Contracts.

#### EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-506 applicable to claims accruing six months or more after July 18, 1966, see section 10 of Pub. L. 89-506, set out as a note under section 2672 of this title.

### § 2402. Jury trial in actions against United States

Subject to chapter 179 of this title, any action against the United States under section 1346 shall be tried by the court without a jury, except that any action against the United States under section 1346(a)(1) shall, at the request of either party to such action, be tried by the court with a jury.

(June 25, 1948, ch. 646, 62 Stat. 971; July 30, 1954, ch. 648, §2(a), 68 Stat. 589; Pub. L. 104-331, §3(b)(3), Oct. 26, 1996, 110 Stat. 4069.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§41(20), 931(a) (Mar. 3, 1911, ch. 231, §24, par. 20, 36 Stat. 1093; Nov. 23, 1921, ch. 136, §1310(c), 42 Stat. 311; June 2, 1924, 4:01 p.m., ch. 234, §1025(c), 43 Stat. 348; Feb. 24, 1925, ch. 309, 43 Stat. 972; Feb. 26, 1926, ch. 27, §§1122(c), 1200, 44 Stat. 121, 125; Aug. 2, 1946, ch. 753, §410(a), 60 Stat. 843).

Section consolidates non-jury provisions of sections 41(20) and 931(a) of title 28, U.S.C., 1940 ed. For other provisions of said section 931(a) relating to tort claims, see Distribution Table.

Word “actions” was substituted for “suits”, in view of Rule 2 of the Federal Rules of Civil Procedure.

Provisions of title 28, U.S.C., 1940 ed., §41(20) relating to jurisdiction of district courts and time for bringing actions against the United States are the basis of sections 1346 and 2401 of this title.