

of Pub. L. 96-417, set out as a note under section 251 of this title.

SAVINGS PROVISION

Enactment of section by Pub. L. 86-243 not to deprive Customs Court officers or employees of any rights, privileges, or civil service status, see section 4 of Pub. L. 86-243, set out as a note under section 871 of this title.

[§ 873. Renumbered § 872]

CHAPTER 57—GENERAL PROVISIONS APPLICABLE TO COURT OFFICERS AND EMPLOYEES

Sec.	
951.	Oath of office of clerks and deputies.
[952.]	Repealed.]
953.	Administration of oaths and acknowledgments.
954.	Vacancy in clerk position; absence of clerk.
955.	Practice of law restricted.
956.	Powers and duties of clerks and deputies.
957.	Clerks ineligible for certain offices.
958.	Persons ineligible as receivers.
959.	Trustees and receivers suable; management; State laws.
960.	Tax liability.
961.	Office expenses of clerks.
[962.]	Repealed.]
963.	Courts defined.

SENATE REVISION AMENDMENT

This chapter was renumbered "57", but without change in its section numbers, by Senate amendment. See 80th Congress Senate Report No. 1559.

AMENDMENTS

1996—Pub. L. 104-317, title II, §204(b), Oct. 19, 1996, 110 Stat. 3850, substituted "Vacancy in clerk position; absence of clerk" for "Death of clerk; duties of deputies" in item 954.

1972—Pub. L. 92-310, title II, §206(e)(2), (f)(2), June 6, 1972, 86 Stat. 203, struck out item 952 "Bonds of clerks and deputies", and struck out "and remedies against" before "deputies" in item 954.

1968—Pub. L. 90-623, §4, Oct. 22, 1968, 82 Stat. 1315, struck out item 962 "Traveling expenses".

1949—Act May 24, 1949, ch. 139, §78a, 63 Stat. 101, struck out "by clerks" after "law" in item 955.

§ 951. Oath of office of clerks and deputies

Each clerk of court and his deputies shall take the following oath or affirmation before entering upon their duties: "I, _____, having been appointed _____, do solemnly swear (or affirm) that I will truly and faithfully enter and record all orders, decrees, judgments and proceedings of such court, and will faithfully and impartially discharge all other duties of my office according to the best of my abilities and understanding. So help me God."

(June 25, 1948, ch. 646, 62 Stat. 925.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §512 (R.S., §794; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167).

Section 512 of title 28, U.S.C., 1940 ed., applied only to the Clerk of the Supreme Court and clerks and deputies of the district courts.

This section is applicable to the Supreme Court and to all courts established by act of Congress.

The last sentence of section 512 of title 28, U.S.C., 1940 ed., reading "The words 'So help me God.' shall be omitted in all cases where an affirmation is admitted

instead of an oath," was omitted as unnecessary because on affirmation such words would not be included. As revised, the section conforms with section 453 of this title providing for the form of judicial oath.

Minor changes were made in phraseology.

[§ 952. Repealed. Pub. L. 92-310, title II, § 206(e)(1), June 6, 1972, 86 Stat. 203]

Section, act June 25, 1948, ch. 646, 62 Stat. 926, related to bonds of clerks and deputies.

§ 953. Administration of oaths and acknowledgments

Each clerk of court and his deputies may administer oaths and affirmations and take acknowledgments.

(June 25, 1948, ch. 646, 62 Stat. 926.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§264, 523 and 525, section 1114(a) of title 26, U.S.C., 1940 ed., Internal Revenue Code, and District of Columbia Code, 1940 ed., §11-402 (R.S. §799; May 28, 1896, ch. 252, §19, 29 Stat. 184; Mar. 2, 1901, ch. 814, 31 Stat. 956; Mar. 3, 1901, ch. 854, §178, 31 Stat. 1219; June 30, 1902, ch. 1329, 32 Stat. 527; Mar. 3, 1911, ch. 231, §§158, 291, 36 Stat. 1139, 1167; Feb. 10, 1939, ch. 2, §1114(a), 53 Stat. 160; Oct. 21, 1942, ch. 619, title V, §504(a)(c), 56 Stat. 957; Feb. 25, 1944, ch. 63, title V, §503, 58 Stat. 72).

This section consolidates a part of section 525, sections 264 and 523 of title 28, U.S.C., 1940 ed., part of section 1114(a) of title 26, U.S.C., 1940 ed., section 11-402 of the District of Columbia Code, 1940 ed.,

As respects acknowledgments, sections 264, 523 and 525 of title 28, U.S.C., 1940 ed., and section 11-402 of District of Columbia Code, 1940 ed., referred only to the Court of Claims and the District Court for the District of Columbia. However, section 555 of said title 28, before amendment in 1944, provided for the collection of a fee by district court clerks for taking acknowledgments. The 1944 amendment provided for the fixing of fees by the Judicial Conference of the United States. If notaries and other minor officials may take acknowledgments there seems to be no reason why clerks of Federal courts and their deputies should not have such power.

Words "Except as provided in section 591 of this title," in section 525 of title 28, U.S.C., 1940 ed., were omitted. Under such section 591, the provisions of such section 525 were inapplicable to the Territory of Alaska, but a later act of June 6, 1900, ch. 786, §7, 31 Stat. 324, section 106 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions, provided that clerks of the District Court for Alaska should perform the duties required or authorized to be performed by clerks of United States courts in other districts.

Provisions of section 525 of title 28, U.S.C., 1940 ed., relating to United States commissioners are incorporated in section 637 of this title.

Provisions of section 264 of title 28, U.S.C., 1940 ed., and section 1114(a) of title 26, U.S.C., 1940 ed., relating to administration of oaths and acknowledgments by judges, are incorporated in section 459 of this title. For distribution of other provisions of such section 1114(a) of title 26, see Distribution Table.

Changes in phraseology were made.

SENATE REVISION AMENDMENT

Those provisions of this section which related to the Tax Court were eliminated by Senate amendment, therefore section 1114(a) of Title 26, U.S.C., Internal Revenue Code, was not a part of the source of this section upon final enactment. The Senate amendments also eliminated section 1114(a) of the Internal Revenue Code from the schedule of repeals. See 80th Congress Senate Report No. 1559.

§ 954. Vacancy in clerk position; absence of clerk

When the office of clerk is vacant, the deputy clerks shall perform the duties of the clerk in the name of the last person who held that office. When the clerk is incapacitated, absent, or otherwise unavailable to perform official duties, the deputy clerks shall perform the duties of the clerk in the name of the clerk. The court may designate a deputy clerk to act temporarily as clerk of the court in his or her own name.

(June 25, 1948, ch. 646, 62 Stat. 926; Pub. L. 92-310, title II, §206(f), June 6, 1972, 86 Stat. 203; Pub. L. 104-317, title II, §204(a), Oct. 19, 1996, 110 Stat. 3850.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§8, 222 and 327 (Mar. 3, 1911, ch. 231, §§4, 125, 221, 36 Stat. 1087, 1132, 1153).

Section consolidates parts of sections 8, 222 and 327 of title 28, U.S.C., 1940 ed.

Sections 8, 222 and 327 of title 28, U.S.C., 1940 ed., related only to district courts, courts of appeals and the Supreme Court, respectively. This section applies to all Federal courts and is in conformity with section 548 [546] of this title relating to death of a United States marshal.

The provision for continuance of the salary of the clerk of the Supreme Court until his successor is appointed and qualifies was inserted to preserve existing law as declared in the unpublished opinion of Chief Justice Taft, March 23, 1932 (filed in the Department of Justice), with respect to a deceased clerk of the Supreme Court.

Other provisions of sections 8, 222 and 327 of title 28, U.S.C., 1940 ed., are incorporated in sections 671, 711, and 751 of this title.

AMENDMENTS

1996—Pub. L. 104-317 substituted “Vacancy in clerk position; absence of clerk” for “Death of clerk; duties of deputies” in section catchline and amended text generally. Prior to amendment, text read as follows:

“Upon the death of any clerk of court, his deputy or deputies shall execute the duties of the deceased clerk in his name until his successor is appointed and qualifies.

“The compensation of a deceased clerk of the Supreme Court may be paid to his personal representatives until his successor is appointed and qualifies.”

1972—Pub. L. 92-310 struck out “and remedies against” before “deputies” in section catchline and repealed provisions which related to the default or misfeasance of a deputy in connection with the bond of a deceased clerk of a Federal court.

§ 955. Practice of law restricted

The clerk of each court and his deputies and assistants shall not practice law in any court of the United States.

(June 25, 1948, ch. 646, 62 Stat. 926.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§395 and 396 (Mar. 3, 1911, ch. 231, §§273, 274, 36 Stat. 1164).

Section consolidates parts of sections 395 and 396 of title 28, U.S.C., 1940 ed. The remainder, relating to United States marshals and their deputies, is incorporated in section 556 of this title.

Sections 395 and 396 of title 28, U.S.C., 1940 ed., have been extended to include all clerks, deputies, and assistants.

The revised section substitutes as simpler and more appropriate, the prohibition against practice of law “in any court of the United States.” (See reviser’s note under section 556 of this title.)

For explanation of provisions omitted from sections 395 and 396 of title 28, U.S.C., 1940 ed., also see reviser’s note under section 556 of this title.

Changes in phraseology were made.

§ 956. Powers and duties of clerks and deputies

The clerk of each court and his deputies and assistants shall exercise the powers and perform the duties assigned to them by the court.

(June 25, 1948, ch. 646, 62 Stat. 926.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§221, 244, 304 and 305 (Mar. 3, 1911, ch. 231, §§124, 139, 191, 192, 36 Stat. 1132, 1136, 1144; June 16, 1930, ch. 494, 46 Stat. 589).

This section contains only a part of sections 221, 244, 304 and 305 of title 28, U.S.C., 1940 ed. The other provisions of such sections are incorporated in sections 604, 711, 831, 833, 834, 957 and 1926 of this title.

Sections 221, 244, 304 and 305 of title 28, U.S.C., 1940 ed., related to the clerks of the circuit courts of appeals, the Court of Claims and the Court of Customs and Patent Appeals.

The phrase “assigned to them by the court” was substituted for the indefinite provision of section 221 of title 28, U.S.C., 1940 ed., that the clerk of each circuit court of appeals “shall exercise the same powers and perform the same duties * * * as are exercised and performed by the clerk of the Supreme Court, so far as the same may be applicable.”

This section is new insofar as it affects the Clerk of the Supreme Court and clerks of the district courts and the Customs Court. Existing law does not prescribe the powers and duties of those clerks. The duties of the clerk of the Customs Court have been prescribed by the rules of such court adopted May 29, 1936.

Changes were made in phraseology.

§ 957. Clerks ineligible for certain offices

A clerk of a court or any of his deputies shall not be appointed a commissioner, master, referee or receiver in any case, unless there are special reasons requiring such appointment which are recited in the order of appointment.

(June 25, 1948, ch. 646, 62 Stat. 926; Pub. L. 95-598, title II, §234, Nov. 6, 1978, 92 Stat. 2667; Pub. L. 97-164, title I, §122(b), Apr. 2, 1982, 96 Stat. 36; Pub. L. 98-353, title I, §109, July 10, 1984, 98 Stat. 342.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§127, 304 (Mar. 3, 1911, ch. 231, §§68, 191, 36 Stat. 1105, 1144).

Section consolidates section 127 with part of 304 of title 28, U.S.C., 1940 ed.

Provisions of section 304 of title 28, U.S.C., 1940 ed., relating to appointment, powers, duties, and compensation of the clerk of the Court of Customs and Patent Appeals, and table of fees are incorporated in sections 604, 831, 956 and 1926 of this title.

Appointment and compensation of masters for district courts, see Rule 53(a) of the Federal Rules of Civil Procedure.

The words “commissioner” and “referee” did not appear in section 127 of title 28, U.S.C., 1940 ed. They were added to subsection (a) to remove possible ambiguity.

Words “by the court or any judge thereof” in section 304 of title 28, U.S.C., 1940 ed., were omitted as surplusage.

Words “or assistant clerks” and “in any case” were added in subsection (b) to make the section applicable to that officer and consistent with the prohibition in this section against deputies of district court clerks.

Minor changes were made in phraseology.

AMENDMENTS

1984—Pub. L. 98-353 struck out “district” before “court”.