

termining the validity of, and enjoining, setting aside, or suspending, in whole or in part, the order of the agency.

(b) The filing of the petition to review does not of itself stay or suspend the operation of the order of the agency, but the court of appeals in its discretion may restrain or suspend, in whole or in part, the operation of the order pending the final hearing and determination of the petition. When the petitioner makes application for an interlocutory injunction restraining or suspending the enforcement, operation, or execution of, or setting aside, in whole or in part, any order reviewable under this chapter, at least 5 days' notice of the hearing thereon shall be given to the agency and to the Attorney General. In a case in which irreparable damage would otherwise result to the petitioner, the court of appeals may, on hearing, after reasonable notice to the agency and to the Attorney General, order a temporary stay or suspension, in whole or in part, of the operation of the order of the agency for not more than 60 days from the date of the order pending the hearing on the application for the interlocutory injunction, in which case the order of the court of appeals shall contain a specific finding, based on evidence submitted to the court of appeals, and identified by reference thereto, that irreparable damage would result to the petitioner and specifying the nature of the damage. The court of appeals, at the time of hearing the application for an interlocutory injunction, on a like finding, may continue the temporary stay or suspension, in whole or in part, until decision on the application.

(Added Pub. L. 89-554, §4(e), Sept. 6, 1966, 80 Stat. 624; amended Pub. L. 98-620, title IV, §402(29)(F), Nov. 8, 1984, 98 Stat. 3359.)

HISTORICAL AND REVISION NOTES

| <i>Derivation</i> | <i>U.S. Code</i> | <i>Revised Statutes and Statutes at Large</i> |
|-------------------|------------------|--|
| | 5 U.S.C. 1039. | Dec. 29, 1950, ch. 1189, §9, 64 Stat. 1131. Sept. 13, 1961, Pub. L. 87-225, §1, 75 Stat. 497. |

The headnotes of the subsections are omitted as unnecessary and to conform to the style of title 28.

In subsection (a), the words "has jurisdiction" and "has exclusive jurisdiction" are substituted for "shall have jurisdiction" and "shall have exclusive jurisdiction", respectively. The words "previously granted" are substituted for "theretofore granted" as the preferred expression.

In subsection (b), the words "does not" are substituted for "shall not". The words "of the United States" following "Attorney General" are omitted as unnecessary. The words "In a case in which" are substituted for "In cases where". The word "result" is substituted for "ensue". In the fourth sentence, the words "provided for above" following the last word "application" are omitted as unnecessary. In the last sentence, the word "applies" is substituted for "shall apply".

AMENDMENTS

1984—Subsec. (b). Pub. L. 98-620 struck out provisions that the hearing on an application for an interlocutory injunction be given preference and expedited and heard at the earliest practicable date after the expiration of the notice of hearing on the application, and that on the final hearing of any proceeding to review any order under this chapter, the same requirements as to precedence and expedition was to apply.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620 set out as an Effective Date note under section 1657 of this title.

§ 2350. Review in Supreme Court on certiorari or certification

(a) An order granting or denying an interlocutory injunction under section 2349(b) of this title and a final judgment of the court of appeals in a proceeding to review under this chapter are subject to review by the Supreme Court on a writ of certiorari as provided by section 1254(1) of this title. Application for the writ shall be made within 45 days after entry of the order and within 90 days after entry of the judgment, as the case may be. The United States, the agency, or an aggrieved party may file a petition for a writ of certiorari.

(b) The provisions of section 1254(2) of this title, regarding certification, and of section 2101(f) of this title, regarding stays, also apply to proceedings under this chapter.

(Added Pub. L. 89-554, §4(e), Sept. 6, 1966, 80 Stat. 624; amended Pub. L. 100-352, §5(e), June 27, 1988, 102 Stat. 663.)

HISTORICAL AND REVISION NOTES

| <i>Derivation</i> | <i>U.S. Code</i> | <i>Revised Statutes and Statutes at Large</i> |
|-------------------|------------------|---|
| | 5 U.S.C. 1040. | Dec. 29, 1950, ch. 1189, §10, 64 Stat. 1132. |

The words "of the United States" following "Supreme Court" are omitted as unnecessary because the term "Supreme Court" as used in title 28 means the Supreme Court of the United States.

The words "section 2101(f) of this title" are substituted for "section 2101(e) of Title 28" on authority of the Act of May 24, 1949, ch. 139, §106(b), 63 Stat. 104, which redesignated subsection (e) of section 2101 as subsection (f).

AMENDMENTS

1988—Subsec. (b). Pub. L. 100-352 substituted "1254(2)" for "1254(3)".

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-352 effective ninety days after June 27, 1988, except that such amendment not to apply to cases pending in Supreme Court on such effective date or affect right to review or manner of reviewing judgment or decree of court which was entered before such effective date, see section 7 of Pub. L. 100-352, set out as a note under section 1254 of this title.

§ 2351. Enforcement of orders by district courts

The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain any person from violating any order issued under section 193 of title 7.

(Added Pub. L. 89-554, §4(e), Sept. 6, 1966, 80 Stat. 624.)

HISTORICAL AND REVISION NOTES

| <i>Derivation</i> | <i>U.S. Code</i> | <i>Revised Statutes and Statutes at Large</i> |
|-------------------|------------------|---|
| | 5 U.S.C. 1042. | Dec. 29, 1950, ch. 1189, §12, 64 Stat. 1132. |

The words "United States" preceding "district court" are omitted as unnecessary because the term

“district court” as used in title 28 means a United States district court. See section 451 of title 28, United States Code. The words “have jurisdiction” are substituted for “are vested with jurisdiction”. The words “heretofore or hereafter” following “order” are omitted as unnecessary and any existing rights and liabilities are preserved by technical sections 7 and 8.

[§ 2352. Repealed. Pub. L. 89-773, § 4, Nov. 6, 1966, 80 Stat. 1323]

Section, Pub. L. 89-554, §4(e), Sept. 6, 1966, 80 Stat. 624, directed the several courts of appeals to adopt and promulgate rules, subject to the approval of the Judicial Conference of the United States, governing the practice and procedure, including prehearing conference procedure, in proceedings to review orders under this chapter. See section 2072 of this title.

SAVINGS PROVISION

Section 4 of Pub. L. 89-773 provided in part that the repeal of this section shall not operate to invalidate or repeal rules adopted under the authority of this section prior to the enactment of Pub. L. 89-773, which rules shall remain in effect until superseded by rules prescribed under authority of section 2072 of this title as amended by Pub. L. 89-773.

[§ 2353. Repealed. Pub. L. 97-164, title I, § 138, Apr. 2, 1982, 96 Stat. 42]

Section, added Pub. L. 91-577, title III, §143(c), Dec. 24, 1970, 84 Stat. 1559, gave the court of appeals non-exclusive jurisdiction to hear appeals under section 71 of the Plant Variety Protection Act (7 U.S.C. 2461). See section 1295(a)(8) of this title.

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.

CHAPTER 159—INTERPLEADER

Sec.
2361. Process and procedure.

§ 2361. Process and procedure

In any civil action of interpleader or in the nature of interpleader under section 1335 of this title, a district court may issue its process for all claimants and enter its order restraining them from instituting or prosecuting any proceeding in any State or United States court affecting the property, instrument or obligation involved in the interpleader action until further order of the court. Such process and order shall be returnable at such time as the court or judge thereof directs, and shall be addressed to and served by the United States marshals for the respective districts where the claimants reside or may be found.

Such district court shall hear and determine the case, and may discharge the plaintiff from further liability, make the injunction permanent, and make all appropriate orders to enforce its judgment.

(June 25, 1948, ch. 646, 62 Stat. 970; May 24, 1949, ch. 139, §117, 63 Stat. 105.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 28, U.S.C., 1940 ed., §41(26) (Mar. 3, 1911, ch. 231, §24, par. 26, as added Jan. 20, 1936, ch. 13, §1, 49 Stat. 1096).

Jurisdiction and venue provisions of section 41(26) of title 28, U.S.C., 1940 ed., appear in sections 1335 and 1397 of this title.

Subsection (e) of section 41(26) of title 28, U.S.C., 1940 ed., relating to defense in nature of interpleader and joinder of additional parties, was omitted as unnecessary, such matters being governed by the Federal Rules of Civil Procedure.

Words, “Notwithstanding any provision of part I of this title to the contrary” were omitted as unnecessary, since the revised title contains no “contrary provisions.”

Changes were made in phraseology.

1949 ACT

This section makes clear that section 2361 of title 28, U.S.C., applies only to statutory actions and not to general equity interpleader suits in which the jurisdictional amount and diversity of citizenship requirements are the same as in other diversity cases.

AMENDMENTS

1949—Act May 24, 1949, substituted “In any civil action of interpleader or in the nature of interpleader under section 1335 under this title” for “In any interpleader action,” and inserted “or prosecuting” between “instituting” and “any proceeding”.

CHAPTER 161—UNITED STATES AS PARTY GENERALLY

| | |
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| Sec. | |
| 2401. | Time for commencing action against United States. |
| 2402. | Jury trial in actions against United States. |
| 2403. | Intervention by United States or a State; constitutional question. |
| 2404. | Death of defendant in damage action. |
| 2405. | Garnishment. |
| 2406. | Credits in actions by United States; prior disallowance. |
| 2407. | Delinquents for public money; judgment at return term; continuance. |
| 2408. | Security not required of United States. |
| 2409. | Partition actions involving United States. |
| 2409a. | Real property quiet title actions. |
| 2410. | Actions affecting property on which United States has lien. |
| 2411. | Interest. |
| 2412. | Costs and fees. |
| 2413. | Executions in favor of United States. |
| 2414. | Payment of judgments and compromise settlements. |
| 2415. | Time for commencing actions brought by the United States. |
| 2416. | Time for commencing actions brought by the United States—Exclusions. |

HISTORICAL AND REVISION NOTES

1949 ACT

This section amends the analysis of chapter 161 of title 28, U.S.C., to conform item 2411 therein with the catch line of section 2411 of such title as amended by another section of this bill.

AMENDMENTS

1980—Pub. L. 96-481, title II, §204(b), Oct. 21, 1980, 94 Stat. 2329, substituted “Costs and fees” for “Costs” in item 2412.

1976—Pub. L. 94-381, §6, Aug. 12, 1976, 90 Stat. 1120, inserted “or a State” after “United States” in item 2403.

1972—Pub. L. 92-562, §3(b), Oct. 25, 1972, 86 Stat. 1177, added item 2409a.

1966—Pub. L. 89-505, §2, July 18, 1966, 80 Stat. 305, added items 2415 and 2416.

1961—Pub. L. 87-187, §2, Aug. 30, 1961, 75 Stat. 416, substituted “and compromise settlements” for “against the United States” in item 2414.