

§ 1455. Procedure for removal of criminal prosecutions

(a) NOTICE OF REMOVAL.—A defendant or defendants desiring to remove any criminal prosecution from a State court shall file in the district court of the United States for the district and division within which such prosecution is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action.

(b) REQUIREMENTS.—(1) A notice of removal of a criminal prosecution shall be filed not later than 30 days after the arraignment in the State court, or at any time before trial, whichever is earlier, except that for good cause shown the United States district court may enter an order granting the defendant or defendants leave to file the notice at a later time.

(2) A notice of removal of a criminal prosecution shall include all grounds for such removal. A failure to state grounds that exist at the time of the filing of the notice shall constitute a waiver of such grounds, and a second notice may be filed only on grounds not existing at the time of the original notice. For good cause shown, the United States district court may grant relief from the limitations of this paragraph.

(3) The filing of a notice of removal of a criminal prosecution shall not prevent the State court in which such prosecution is pending from proceeding further, except that a judgment of conviction shall not be entered unless the prosecution is first remanded.

(4) The United States district court in which such notice is filed shall examine the notice promptly. If it clearly appears on the face of the notice and any exhibits annexed thereto that removal should not be permitted, the court shall make an order for summary remand.

(5) If the United States district court does not order the summary remand of such prosecution, it shall order an evidentiary hearing to be held promptly and, after such hearing, shall make such disposition of the prosecution as justice shall require. If the United States district court determines that removal shall be permitted, it shall so notify the State court in which prosecution is pending, which shall proceed no further.

(c) WRIT OF HABEAS CORPUS.—If the defendant or defendants are in actual custody on process issued by the State court, the district court shall issue its writ of habeas corpus, and the marshal shall thereupon take such defendant or defendants into the marshal's custody and deliver a copy of the writ to the clerk of such State court.

(Added Pub. L. 112-63, title I, §103(c), Dec. 7, 2011, 125 Stat. 761.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (a), are set out in the Appendix to this title.

EFFECTIVE DATE

Section effective upon the expiration of the 30-day period beginning on Dec. 7, 2011, and applicable to any action or prosecution commenced on or after such effective date, with provisions for treatment of cases re-

moved to Federal court, see section 105 of Pub. L. 112-63, set out as an Effective Date of 2011 Amendment note under section 1332 of this title.

[CHAPTER 90—OMITTED]

CODIFICATION

Chapter 90, consisting of sections 1471 to 1482, which was added by Pub. L. 95-598, title II, §241(a), Nov. 6, 1978, 92 Stat. 2668, and which related to district courts and 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.

TRANSITION TO NEW COURT SYSTEM

Pub. L. 95-598, title IV, §409, Nov. 6, 1978, 92 Stat. 2687, as amended by Pub. L. 98-249, §1(d), Mar. 31, 1984, 98 Stat. 116; Pub. L. 98-271, §1(d), Apr. 30, 1984, 98 Stat. 163; Pub. L. 98-299, §1(d), May 25, 1984, 98 Stat. 214; Pub. L. 98-325, §1(d), June 20, 1984, 98 Stat. 268; Pub. L. 98-353, title I, §121(d), July 10, 1984, 98 Stat. 346, which provided for transfer to the new court system of cases, and matters and proceedings in cases, under the Bankruptcy Act [former Title 11] pending at the end of Sept. 30, 1983, in the courts of bankruptcy continued under section 404(a) of Pub. L. 95-598, with certain exceptions, and cases and proceedings arising under or related to cases under Title 11 pending at the end of July 9, 1984, and directed that civil actions pending on July 9, 1984, over which a bankruptcy court had jurisdiction on July 9, 1984, not abate, but continuation of such actions not finally determined before Apr. 1, 1985, be removed to a bankruptcy court under this chapter, and that all law books, publications, etc., furnished bankruptcy judges as of July 9, 1984, be transferred to the United States bankruptcy courts under the supervision of the Director of the Administrative Office of the United States Courts, was repealed by Pub. L. 98-353, title I, §122(a), July 10, 1984, 98 Stat. 343, 346, eff. July 10, 1984.

CHAPTER 91—UNITED STATES COURT OF FEDERAL CLAIMS

Sec.	
1491.	Claims against United States generally; actions involving Tennessee Valley Authority.
1492.	Congressional reference cases.
[1493.	Repealed.]
1494.	Accounts of officers, agents or contractors.
1495.	Damages for unjust conviction and imprisonment; claim against United States.
1496.	Disbursing officers' claims.
1497.	Oyster growers' damages from dredging operations.
1498.	Patent and copyright cases.
1499.	Liquidated damages withheld from contractors under chapter 37 of title 40.
1500.	Pendency of claims in other courts.
1501.	Pensions.
1502.	Treaty cases.
1503.	Set-offs.
[1504.	Repealed.]
1505.	Indian claims.
[1506.	Repealed.]
1507.	Jurisdiction for certain declaratory judgments.
1508.	Jurisdiction for certain partnership proceedings.
1509.	No jurisdiction in cases involving refunds of tax shelter promoter and understatement penalties.

HISTORICAL AND REVISION NOTES

1949 ACT

This section inserts in the analysis of chapter 91 of title 28, U.S.C., item 1505, corresponding to new section 1505.