

(June 25, 1948, ch. 646, 62 Stat. 983.)

REPEAL

Pub. L. 89-348, §1(1), Nov. 8, 1965, 79 Stat. 1310, repealed the requirement that an annual report to Congress be made of the administrative adjustment of tort claims of \$2,500 or less, stating the name of each claimant, the amount claimed, the amount awarded, and a brief description of the claim.

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §922 (Aug. 2, 1946, ch. 753, §404, 60 Stat. 843).

Changes were made in phraseology.

§ 2674. Liability of United States

The United States shall be liable, respecting the provisions of this title relating to tort claims, in the same manner and to the same extent as a private individual under like circumstances, but shall not be liable for interest prior to judgment or for punitive damages.

If, however, in any case wherein death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, the United States shall be liable for actual or compensatory damages, measured by the pecuniary injuries resulting from such death to the persons respectively, for whose benefit the action was brought, in lieu thereof.

With respect to any claim under this chapter, the United States shall be entitled to assert any defense based upon judicial or legislative immunity which otherwise would have been available to the employee of the United States whose act or omission gave rise to the claim, as well as any other defenses to which the United States is entitled.

With respect to any claim to which this section applies, the Tennessee Valley Authority shall be entitled to assert any defense which otherwise would have been available to the employee based upon judicial or legislative immunity, which otherwise would have been available to the employee of the Tennessee Valley Authority whose act or omission gave rise to the claim as well as any other defenses to which the Tennessee Valley Authority is entitled under this chapter.

(June 25, 1948, ch. 646, 62 Stat. 983; Pub. L. 100-694, §§4, 9(c), Nov. 18, 1988, 102 Stat. 4564, 4567.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §931(a) (Aug. 2, 1946, ch. 753, §410(a), 60 Stat. 843).

Section constitutes the liability provisions in the second sentence of section 931(a) of title 28, U.S.C., 1940 ed.

Other provisions of section 931(a) of title 28, U.S.C., 1940 ed., are incorporated in sections 1346(b), 1402, 2402, 2411, and 2412 of this title, but the provision of such section 931(a) that the United States shall not be liable for interest prior to judgment was omitted as unnecessary in view of section 2411 of this title, which provides that interest on judgments against the United States shall be computed from the date of judgment. Such section 2411 is made applicable to tort-claim actions by section 932 of title 28, U.S.C., 1940 ed.

Changes were made in phraseology.

SENATE REVISION AMENDMENT

For Senate amendment to this section, see 80th Congress Senate Report No. 1559, amendment No. 60.

AMENDMENTS

1988—Pub. L. 100-694 inserted two pars. at end entitling the United States and the Tennessee Valley Authority to assert any defense based upon judicial or legislative immunity.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-694 effective Nov. 18, 1988, and applicable to all claims, civil actions, and proceedings pending on, or filed on or after, Nov. 18, 1988, see section 8 of Pub. L. 100-694 set out as a note under section 2679 of this title.

§ 2675. Disposition by federal agency as prerequisite; evidence

(a) An action shall not be instituted upon a claim against the United States for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, unless the claimant shall have first presented the claim to the appropriate Federal agency and his claim shall have been finally denied by the agency in writing and sent by certified or registered mail. The failure of an agency to make final disposition of a claim within six months after it is filed shall, at the option of the claimant any time thereafter, be deemed a final denial of the claim for purposes of this section. The provisions of this subsection shall not apply to such claims as may be asserted under the Federal Rules of Civil Procedure by third party complaint, cross-claim, or counterclaim.

(b) Action under this section shall not be instituted for any sum in excess of the amount of the claim presented to the federal agency, except where the increased amount is based upon newly discovered evidence not reasonably discoverable at the time of presenting the claim to the federal agency, or upon allegation and proof of intervening facts, relating to the amount of the claim.

(c) Disposition of any claim by the Attorney General or other head of a federal agency shall not be competent evidence of liability or amount of damages.

(June 25, 1948, ch. 646, 62 Stat. 983; May 24, 1949, ch. 139, §126, 63 Stat. 107; Pub. L. 89-506, §2, July 18, 1966, 80 Stat. 306.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 28, U.S.C., 1940 ed., §931(b) (Aug. 2, 1946, ch. 753, §410(b), 60 Stat. 844).

Section constitutes all of section 931(b), except the first sentence, of title 28, U.S.C., 1940 ed. The remainder of such section 931(b) is incorporated in section 2677 of this title.

Changes were made in phraseology.

1949 ACT

This section corrects a typographical error in section 2675(b) of title 28, U.S.C.

REFERENCES IN TEXT

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