

23, 1970], the provisions of this Act [amending this section and section 1491 of this title and section 724a of former Title 31, Money and Finance] shall also apply to claims and civil actions dismissed before or pending on the date of enactment of this Act if the claim or civil action is based upon a transaction, omission, or breach that occurred not more than six years prior to the date of enactment of this Act [July 23, 1970].

“(b) The provisions of subsection (a) of this section shall apply notwithstanding a determination or judgment made prior to the date of enactment of this Act that the United States district courts or the United States Court of Claims did not have jurisdiction to entertain a suit on an express or implied contract with a nonappropriated fund instrumentality of the United States described in section 1 of this Act.”

#### EFFECTIVE DATE OF 1966 AMENDMENT

Pub. L. 89-719, title II, §203, Nov. 2, 1966, 80 Stat. 1149, provided that: “The amendments made by this title [amending this section and sections 1402 and 2410 of this title] shall apply after the date of the enactment of this Act [Nov. 2, 1966].”

#### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-508 effective Jan. 3, 1959, on admission of Alaska into the Union pursuant to Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, see notes set out under section 81A of this title and preceding section 21 of Title 48, Territories and Insular Possessions.

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, set out as a note under section 542 of Title 6.

#### TERMINATION OF UNITED STATES DISTRICT COURT FOR THE DISTRICT OF THE CANAL ZONE

For termination of the United States District Court for the District of the Canal Zone at end of the “transition period”, being the 30-month period beginning Oct. 1, 1979, and ending midnight Mar. 31, 1982, see Paragraph 5 of Article XI of the Panama Canal Treaty of 1977 and sections 2101 and 2201 to 2203 of Pub. L. 96-70, title II, Sept. 27, 1979, 93 Stat. 493, formerly classified to sections 3831 and 3841 to 3843, respectively, of Title 22, Foreign Relations and Intercourse.

### § 1347. Partition action where United States is joint tenant

The district courts shall have original jurisdiction of any civil action commenced by any tenant in common or joint tenant for the partition of lands where the United States is one of the tenants in common or joint tenants.

(June 25, 1948, ch. 646, 62 Stat. 933.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §41(25) (Mar. 3, 1911, ch. 231, §24, par. 25, 36 Stat. 1094).

The venue provision in section 41(25) of title 28, U.S.C., 1940 ed., is incorporated in section 1399 of this title.

Words “civil action” were substituted for “suits in equity,” in view of Rule 2 of the Federal Rules of Civil Procedure.

A change was made in phraseology.

### § 1348. Banking association as party

The district courts shall have original jurisdiction of any civil action commenced by the

United States, or by direction of any officer thereof, against any national banking association, any civil action to wind up the affairs of any such association, and any action by a banking association established in the district for which the court is held, under chapter 2 of Title 12, to enjoin the Comptroller of the Currency, or any receiver acting under his direction, as provided by such chapter.

All national banking associations shall, for the purposes of all other actions by or against them, be deemed citizens of the States in which they are respectively located.

(June 25, 1948, ch. 646, 62 Stat. 933.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §41(16) (Mar. 3, 1911, ch. 231, §24, par. 16, 36 Stat. 1092).

Words “any civil action” were substituted for “all cases,” in view of Rule 2 of the Federal Rules of Civil Procedure.

Words “real, personal, or mixed, and all suits in equity,” after “all other actions by or against them,” were omitted as superfluous.

#### EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, were not included in the transfer of functions of officers, agencies and employees of the Department of the Treasury to the Secretary of the Treasury, made by Reorg. Plan No. 26 of 1950, §1, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280. See section 321(c)(2) of Title 31, Money and Finance.

### § 1349. Corporation organized under federal law as party

The district courts shall not have jurisdiction of any civil action by or against any corporation upon the ground that it was incorporated by or under an Act of Congress, unless the United States is the owner of more than one-half of its capital stock.

(June 25, 1948, ch. 646, 62 Stat. 934.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §42 (Feb. 13, 1925, ch. 229, §12, 43 Stat. 941).

Words “civil action” were substituted for “action or suit,” in view of Rule 2 of the Federal Rules of Civil Procedure.

Minor changes were made in phraseology.

### § 1350. Alien’s action for tort

The district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States.

(June 25, 1948, ch. 646, 62 Stat. 934.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §41(17) (Mar. 3, 1911, ch. 231, §24, par. 17, 36 Stat. 1093).

Words “civil action” were substituted for “suits,” in view of Rule 2 of the Federal Rules of Civil Procedure. Changes in phraseology were made.

#### TORTURE VICTIM PROTECTION

Pub. L. 102-256, Mar. 12, 1992, 106 Stat. 73, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Torture Victim Protection Act of 1991’.

“SEC. 2. ESTABLISHMENT OF CIVIL ACTION.

“(a) LIABILITY.—An individual who, under actual or apparent authority, or color of law, of any foreign nation—

“(1) subjects an individual to torture shall, in a civil action, be liable for damages to that individual; or

“(2) subjects an individual to extrajudicial killing shall, in a civil action, be liable for damages to the individual’s legal representative, or to any person who may be a claimant in an action for wrongful death.

“(b) EXHAUSTION OF REMEDIES.—A court shall decline to hear a claim under this section if the claimant has not exhausted adequate and available remedies in the place in which the conduct giving rise to the claim occurred.

“(c) STATUTE OF LIMITATIONS.—No action shall be maintained under this section unless it is commenced within 10 years after the cause of action arose.

“SEC. 3. DEFINITIONS.

“(a) EXTRAJUDICIAL KILLING.—For the purposes of this Act, the term ‘extrajudicial killing’ means a deliberated killing not authorized by a previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples. Such term, however, does not include any such killing that, under international law, is lawfully carried out under the authority of a foreign nation.

“(b) TORTURE.—For the purposes of this Act—

“(1) the term ‘torture’ means any act, directed against an individual in the offender’s custody or physical control, by which severe pain or suffering (other than pain or suffering arising only from or inherent in, or incidental to, lawful sanctions), whether physical or mental, is intentionally inflicted on that individual for such purposes as obtaining from that individual or a third person information or a confession, punishing that individual for an act that individual or a third person has committed or is suspected of having committed, intimidating or coercing that individual or a third person, or for any reason based on discrimination of any kind; and

“(2) mental pain or suffering refers to prolonged mental harm caused by or resulting from—

“(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

“(B) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

“(C) the threat of imminent death; or

“(D) the threat that another individual will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.”

**§ 1351. Consuls, vice consuls, and members of a diplomatic mission as defendant**

The district courts shall have original jurisdiction, exclusive of the courts of the States, of all civil actions and proceedings against—

(1) consuls or vice consuls of foreign states; or

(2) members of a mission or members of their families (as such terms are defined in section 2 of the Diplomatic Relations Act).

(June 25, 1948, ch. 646, 62 Stat. 934; May 24, 1949, ch. 139, §80(c), 63 Stat. 101; Pub. L. 95–393, §8(a)(1), Sept. 30, 1978, 92 Stat. 810.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§41(18), 371(8) (Mar. 3, 1911, ch. 231, §§24, par. 18, 256, par. 8, 36 Stat. 1093, 1160).

Words “civil action” were substituted for “suits,” and “all suits and proceedings” in view of Rule 2 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

REFERENCES IN TEXT

Section 2 of the Diplomatic Relations Act, referred to in par. (2), is classified to section 254a of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1978—Pub. L. 95–393 substituted “Consuls, vice consuls, and members of a diplomatic mission as defendant” for “Consuls and vice consuls as defendants” in section catchline, designated existing provisions as introductory provision preceding par. (1), and in such introductory provision as so designated, substituted “civil actions and proceedings against—” for “actions and proceedings against consuls or vice consuls of foreign states”, and added pars. (1) and (2).

1949—Act May 24, 1949, substituted “of all actions and proceedings” for “of any civil action”.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–393 effective at end of ninety-day period beginning on Sept. 30, 1978, see section 9 of Pub. L. 95–393, set out as an Effective Date note under section 254a of Title 22, Foreign Relations and Intercourse.

**§ 1352. Bonds executed under federal law**

The district courts shall have original jurisdiction, concurrent with State courts, of any action on a bond executed under any law of the United States, except matters within the jurisdiction of the Court of International Trade under section 1582 of this title.

(June 25, 1948, ch. 646, 62 Stat. 934; Pub. L. 96–417, title V, §506, Oct. 10, 1980, 94 Stat. 1743.)

HISTORICAL AND REVISION NOTES

This section is necessary to permit actions in the district courts upon any bond authorized by a law of the United States. In the absence of this new provision, such actions could not be maintained except by the United States, where the amount and other jurisdictional requisites did not exist. The new section also makes clear that it does not affect the right to prosecute such actions in State courts.

AMENDMENTS

1980—Pub. L. 96–417 inserted exception for matters within the jurisdiction of the Court of International Trade under section 1582 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–417 applicable with respect to civil actions commenced on or after the 90th day after Nov. 1, 1980, see section 701(c)(1)(B) of Pub. L. 96–417, set out as a note under section 251 of this title.

**§ 1353. Indian allotments**

The district courts shall have original jurisdiction of any civil action involving the right of any person, in whole or in part of Indian blood or descent, to any allotment of land under any Act of Congress or treaty.

The judgment in favor of any claimant to an allotment of land shall have the same effect, when properly certified to the Secretary of the Interior, as if such allotment had been allowed and approved by him; but this provision shall not apply to any lands held on or before December 21, 1911, by either of the Five Civilized