

“(c) Any act or failure to act by a senior judge performing judicial duties pursuant to this section shall have the same force and effect as if it were the act or failure to act of a judge on active duty; but such senior judge shall not be counted as a judge of the court on which he is serving for purposes of the number of judgeships authorized for that court.

“(d) Any senior judge shall be paid, while performing duties pursuant to this section, the same compensation (in lieu of payments pursuant to section 373 of title 28, United States Code) and the same allowances for travel and other expenses as a judge in active service.

“(e) Senior judges under subsection (a) of this section shall at all times be governed by the code of judicial conduct for the United States judges, approved by the Judicial Conference of the United States.

“(f) Any person who has elected to be a senior judge under subsection (a) of this section and who thereafter—

“(1) accepts civil office or employment under the Government of the United States (other than the performance of judicial duties pursuant to subsection (b) of this section);

“(2) engages in the practice of law; or

“(3) materially violated the code of judicial conduct for the United States judges, shall cease to be a senior judge and to be eligible for recall pursuant to subsection (b) of this section.”

TENURE AND SALARY RIGHTS OF JUDGES IN PUERTO RICO IN OFFICE ON SEPTEMBER 12, 1966

Amendment by Pub. L. 89-571 not to affect tenure of office or right to continue to receive salary after resignation, retirement, or failure of reappointment of any district judge for the District of Puerto Rico in office on Sept. 12, 1966, see section 4 of Pub. L. 89-571, set out as a note under section 134 of this title.

PRESERVATION OF RIGHTS OF RETIRED JUDGES OF THE DISTRICT COURT FOR THE DISTRICT OF HAWAII AND JUSTICES OF THE SUPREME COURT OF THE TERRITORY OF HAWAII

Pub. L. 86-3, §14(d), Mar. 18, 1959, 73 Stat. 10, provided in part: “That the amendments made by this subsection shall not affect the rights of any judge or justice who may have retired before the effective date of this subsection”. See Effective Date of 1959 Amendment note above.

PRESERVATION OF RIGHTS OF RETIRED JUDGES OF THE DISTRICT COURT FOR THE TERRITORY OF ALASKA

Pub. L. 85-508, §12(d), July 7, 1958, 72 Stat. 348, provided in part: “That the amendment made by this subsection shall not affect the rights of any judge who may have retired before it takes effect”. See Effective Date of 1958 Amendment note above.

JUDICIAL SERVICE IN HAWAII

Certain judicial service in Hawaii included within computation of aggregate years of judicial service, see section 14(d) of Pub. L. 86-3, set out as a note under section 371 of this title.

§ 374. Residence of retired judges; official station

Retired judges of the United States are not subject to restrictions as to residence. The place where a retired judge maintains the actual abode in which he customarily lives shall be deemed to be his official station for the purposes of section 456 of this title. The place where a judge or magistrate judge recalled under section 155, 375, 636, or 797 of this title maintains the actual abode in which the judge or magistrate judge customarily lives shall be deemed to be the official station of such judge or magistrate judge for purposes of section 604(a)(7) of this title.

(June 25, 1948, ch. 646, 62 Stat. 904; Pub. L. 86-312, §1, Sept. 21, 1959, 73 Stat. 587; Pub. L. 99-651, title II, §202(b), Nov. 14, 1986, 100 Stat. 3648; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §402 (Feb. 11, 1938, ch. 23, 52 Stat. 28).

Sections 44 and 133 of this title require that active circuit and district judges shall reside in the circuit or district to which appointed.

Changes were made in phraseology.

AMENDMENTS

1986—Pub. L. 99-651 inserted last sentence.

1959—Pub. L. 86-312 inserted sentence to provide that place where retired judge maintains actual abode shall be deemed to be his official station and inserted “; official station” in section catchline.

CHANGE OF NAME

Words “magistrate judge” substituted for “magistrate” wherever appearing in text pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-651 effective Jan. 1, 1987, see section 203 of Pub. L. 99-651, set out as a note under section 155 of this title.

§ 375. Recall of certain judges and magistrate judges

(a)(1) A bankruptcy judge or a United States magistrate judge appointed under chapter 43 of this title, who has retired under the provisions of section 377 of this title or under the applicable provisions of title 5 upon attaining the age and years of service requirements established in section 371(c) of this title, may agree to be recalled to serve under this section for a period of five years as a bankruptcy judge or magistrate judge, as the case may be, upon certification that substantial service is expected to be performed by such retired judge or magistrate judge during such 5-year period. With the agreement of the judge or magistrate judge involved, a certification under this subsection may be renewed for successive 5-year periods.

(2) For purposes of paragraph (1) of this subsection, a certification may be made, in the case of a bankruptcy judge or a United States magistrate,¹ by the judicial council of the circuit in which the official duty station of the judge or magistrate at the time of retirement was located.

(3) For purposes of this section, the term “bankruptcy judge” means a bankruptcy judge appointed under chapter 6 of this title or serving as a bankruptcy judge on March 31, 1984.

(b) A judge or magistrate judge recalled under this section may exercise all of the powers and duties of the office of judge or magistrate judge held at the time of retirement, including the ability to serve in any other judicial district to the extent applicable, but may not engage in the practice of law or engage in any other business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of duties as a judicial officer.

¹ So in original. Probably should be “United States magistrate judge.”

(c) During the 5-year period in which a certification under subsection (a) is in effect, the judge or magistrate judge involved shall receive, in addition to the annuity provided under the provisions of section 377 of this title or under the applicable provisions of title 5, an amount equal to the difference between that annuity and the current salary of the office to which the judge or magistrate judge is recalled. The annuity of a bankruptcy judge or magistrate judge who completes that 5-year period of service, whose certification is not renewed, and who retired under section 377 of this title shall be equal to the salary in effect, at the end of that 5-year period, for the office from which he or she retired.

(d) A certification under subsection (a) may be terminated in accordance with chapter 16 of this title, and such a certification shall be terminated upon the death of the recalled judge or magistrate judge involved.

(e) Except as provided in subsection (b), nothing in this section shall affect the right of judges or magistrate judges who retire under the provisions of chapter 83 or chapter 84 of title 5 to serve as reemployed annuitants in accordance with the provisions of title 5. A judge or magistrate judge to whom this section applies may be recalled under section 155, 636(h), or 797 of this title, as the case may be, other than during a 5-year period in which a certification under subsection (a) is in effect with respect to that judge or magistrate judge.

(f) For purposes of determining the years of service requirements in order to be eligible for recall under this section, any service as a bankruptcy judge or a United States magistrate judge, and any prior service as a referee in bankruptcy or a United States commissioner, may be credited.

(g) Except as provided in subsection (c), a judge or magistrate judge recalled under this section who retired under the applicable provisions of title 5 shall be considered to be a reemployed annuitant under chapter 83 or chapter 84, as the case may be, of title 5.

(h) The Judicial Conference of the United States may promulgate regulations to implement this section.

(Added Pub. L. 99-651, title II, §201(b)(1), Nov. 14, 1986, 100 Stat. 3647; amended Pub. L. 100-659, §4(b), Nov. 15, 1988, 102 Stat. 3918; Pub. L. 101-650, title III, §§321, 325(b)(2), Dec. 1, 1990, 104 Stat. 5117, 5121; Pub. L. 102-572, title IX, §904(a), Oct. 29, 1992, 106 Stat. 4517; Pub. L. 107-273, div. C, title I, §11043(d), Nov. 2, 2002, 116 Stat. 1855.)

PRIOR PROVISIONS

A prior section 375, added Aug. 28, 1954, ch. 1053, §1, 68 Stat. 918; amended Aug. 3, 1956, ch. 944, §1(b), 70 Stat. 1021; Aug. 22, 1972, Pub. L. 92-397, §1, 86 Stat. 579, provided for annuities to widows of justices, prior to repeal by Pub. L. 96-504, §5, Dec. 5, 1980, 94 Stat. 2742.

AMENDMENTS

2002—Subsec. (d). Pub. L. 107-273 substituted “chapter 16” for “section 372(c)”.

1992—Subsec. (a)(1). Pub. L. 102-572, §904(a)(1), struck out “, a judge of the Claims Court,” after “A bankruptcy judge” and “, judge of the Claims Court,” after “a bankruptcy judge”.

Subsec. (a)(2). Pub. L. 102-572, §904(a)(2), amended par. (2) generally. Prior to amendment, par. (2) read as fol-

lows: “For purposes of paragraph (1) of this subsection, a certification may be made—

“(A) in the case of a bankruptcy judge or a United States magistrate, by the judicial council of the circuit in which the official duty station of the judge or magistrate at the time of retirement was located; and

“(B) in the case of a judge of the Claims Court, by the chief judge of the United States Claims Court.”

Subsec. (a)(3). Pub. L. 102-572, §904(a)(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “For purposes of this section—

“(A) the term ‘bankruptcy judge’ means a bankruptcy judge appointed under chapter 6 of this title or serving as a bankruptcy judge on March 31, 1984; and

“(B) the term ‘judge of the Claims Court’ means a judge of the United States Claims Court who is appointed under chapter 7 of this title or who has served under section 167 of the Federal Courts Improvement Act of 1982.”

Subsec. (f). Pub. L. 102-572, §904(a)(4), struck out “, a judge of the Claims Court,” after “bankruptcy judge” and “, a commissioner of the Court of Claims,” after “referee in bankruptcy”.

1990—Subsec. (a)(1). Pub. L. 101-650 substituted “section 377 of this title” for “section 377 of title”.

1988—Subsec. (a)(1). Pub. L. 100-659, §4(b)(1), inserted “under the provisions of section 377 of title or” after “has retired”.

Subsec. (c). Pub. L. 100-659, §4(b)(2), inserted “under the provisions of section 377 of this title or” after “annuity provided” and inserted at end “The annuity of a bankruptcy judge or magistrate who completes that 5-year period of service, whose certification is not renewed, and who retired under section 377 of this title shall be equal to the salary in effect, at the end of that 5-year period, for the office from which he or she retired.”

Subsec. (g). Pub. L. 100-659, §4(b)(3), inserted “who retired under the applicable provisions of title 5” after “section”.

CHANGE OF NAME

Words “magistrate judge” and “magistrate judges” substituted for “magistrate” and “magistrates”, respectively, wherever appearing in section catchline and text pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-659 effective Nov. 15, 1988, and applicable to bankruptcy judges and magistrate judges who retire on or after Nov. 15, 1988, with exception for judges and magistrate judges retiring on or after July 31, 1987, see section 9 of Pub. L. 100-659, as amended, set out as an Effective Date note under section 377 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1987, see section 203 of Pub. L. 99-651, set out as an Effective Date of 1986 Amendment note under section 155 of this title.

§ 376. Annuities for survivors of certain judicial officials of the United States

(a) For the purposes of this section—

(1) “judicial official” means:

(A) a Justice or judge of the United States, as defined by section 451 of this title;

(B) a judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands;