

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 225(b), 227, 227a, and section 61 of title 7 of the Canal Zone Code (Mar. 3, 1911, ch. 231, §§ 128, 129, 36 Stat. 1133, 1134; Feb. 13, 1925, ch. 229, § 1, 43 Stat. 937; Feb. 28, 1927, ch. 228, 44 Stat. 1261; Apr. 3, 1926, ch. 102, 44 Stat. 233; May 20, 1926, ch. 347, § 13(a), 44 Stat. 587; Apr. 11, 1928, ch. 354, § 1, 45 Stat. 422; May 17, 1932, ch. 190, 47 Stat. 158).

Section consolidates sections 225(b), 227 and part of 227a of title 28, U.S.C., 1940 ed., with necessary changes in phraseology to effect the consolidation.

The second paragraph of section 225(b) of title 28, U.S.C., 1940 ed., relating to review of decisions of the district courts, under section 9 of the Railway Labor Act (section 159 of title 45), was omitted as covered by section 1291 of this title.

Words in section 227 of title 28, U.S.C., 1940 ed., “or decree,” after “interlocutory order,” were deleted, in view of Rule 65 of the Federal Rules of Civil Procedure, using only the word “order.”

Provisions of sections 227 and 227a of title 28, U.S.C., 1940 ed., relating to stay of proceedings pending appeal were omitted as superseded by Federal Rules of Civil Procedure, Rule 73.

Provisions of section 227 of title 28, U.S.C., 1940 ed., requiring an additional bond by the district court as a condition of appeal were omitted in view of Federal Rules of Civil Procedure, Rule 73.

Words in section 227 of title 28, U.S.C., 1940 ed., “and sections 346 and 347 of this title shall apply to such cases in the circuit courts of appeals as to other cases therein,” at the end of the first sentence of section 227 of title 28, U.S.C., 1940 ed., were deleted as fully covered by section 1254 of this title, applicable to any case in a court of appeals. Other procedural provisions of said section 227 were omitted as covered by section 2101 et seq. of this title.

In subsection (4), which is based on section 227a of title 28, U.S.C., 1940 ed., words “civil actions” were substituted for “suits in equity” and word “judgments” was substituted for “decree,” in view of Rules 2 and 54 of the Federal Rules of Civil Procedure.

The provision of sections 227 and 227a of title 28, U.S.C., 1940 ed., that appeal must be taken within thirty days after entry of order, decree or judgment is incorporated in section 2107 of this title.

The provisions of section 227a of title 28, U.S.C., 1940 ed., relating to stay of proceedings pending appeal, were omitted as superseded by Rule 73 of the Federal Rules of Civil Procedure.

The district courts for the districts of Hawaii and Puerto Rico are embraced in the term “district courts of the United States.” (See definitive section 451 of this title.) Consequently the specific reference in section 225 of title 28, U.S.C., 1940 ed., to “the United States district courts for Hawaii” was omitted.

The District Court for the District of Puerto Rico is not enumerated in section 225(b) of title 28, U.S.C., 1940 ed., nevertheless subsection (2) of the revised section does not except such court. Thus in conformity with the last sentence of section 864, title 48, U.S.C., 1940 ed. For distribution of said section 864, see Distribution Table.

Section 61 of title 7 of the Canal Zone Code is also incorporated in sections 1291 and 1294 of this title.

AMENDMENTS

1992—Subsec. (d)(2). Pub. L. 102-572, §§ 902(b)(1), 906(c), substituted “When the chief judge of the United States Court of Federal Claims issues an order under section 798(b) of this title, or when any judge of the United States Court of Federal Claims” for “When any judge of the United States Claims Court”.

Subsec. (d)(3). Pub. L. 102-572, § 902(b)(2), substituted “Court of Federal Claims” for “Claims Court” in two places.

Subsec. (d)(4). Pub. L. 102-572, § 902(b), substituted “United States Court of Federal Claims” for “United States Claims Court” in subpar. (A) and “Court of Fed-

eral Claims” for “Claims Court” in two places in subpar. (B).

Subsec. (e). Pub. L. 102-572, § 101, added subsec. (e).

1988—Subsec. (d)(4). Pub. L. 100-702 added par. (4).

1984—Subsec. (b). Pub. L. 98-620, § 412(a), inserted “which would have jurisdiction of an appeal of such action” after “The Court of Appeals”.

Subsec. (c)(1). Pub. L. 98-620, § 412(b), inserted “or (b)” after “(a)”.

1982—Subsec. (a). Pub. L. 97-164, § 125(a)(1), substituted “Except as provided in subsections (c) and (d) of this section, the courts” for “The courts” in introductory provisions.

Subsec. (a)(4). Pub. L. 97-164, § 125(a)(2), (3), struck out par. (4) which related to judgments in civil actions for patent infringement which were final except for accounting.

Subsecs. (c), (d). Pub. L. 97-164, § 125(b), added subsecs. (c) and (d).

1958—Pub. L. 85-919 designated existing provisions as subsec. (a) and added subsec. (b).

Par. (1). Pub. L. 85-508 struck out reference to District Court for Territory of Alaska. See section 81A of this title which established a United States District Court for the State of Alaska.

1951—Par. (1). Act Oct. 31, 1951, inserted reference to District Court of Guam.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 101 of Pub. L. 102-572 effective Jan. 1, 1993, see section 1101(a) of Pub. L. 102-572, set out as a note under section 905 of Title 2, The Congress.

Amendment by sections 902(b) and 906(c) of 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

Pub. L. 100-702, title V, § 502, Nov. 19, 1988, 102 Stat. 4652, provided that: “The amendment made by section 501 [amending this section] shall apply to any action commenced in the district court on or after the date of enactment of this title [Nov. 19, 1988].”

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

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.

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 3831 and 3841 to 3843 of Title 22, Foreign Relations and Intercourse.

[§ 1293. Repealed. Pub. L. 87-189, § 3, Aug. 30, 1961, 75 Stat. 417]

Section, acts June 25, 1948, ch. 646, 62 Stat. 929; Mar. 18, 1959, Pub. L. 86-3, § 14(b), 73 Stat. 10, provided for appeal from supreme court of Puerto Rico to court of appeals for first circuit. See section 1258 of this title.

A subsequent section 1293, added Pub. L. 95-598, title II, § 236(a), Nov. 6, 1978, 92 Stat. 2667, which related to bankruptcy appeals, 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.

§ 1294. Circuits in which decisions reviewable

Except as provided in sections 1292(c), 1292(d), and 1295 of this title, appeals from reviewable decisions of the district and territorial courts shall be taken to the courts of appeals as follows:

(1) From a district court of the United States to the court of appeals for the circuit embracing the district;

(2) From the United States District Court for the District of the Canal Zone, to the Court of Appeals for the Fifth Circuit;

(3) From the District Court of the Virgin Islands, to the Court of Appeals for the Third Circuit;

(4) From the District Court of Guam, to the Court of Appeals for the Ninth Circuit.

(June 25, 1948, ch. 646, 62 Stat. 930; Oct. 31, 1951, ch. 655, § 50(a), 65 Stat. 727; Pub. L. 85-508, § 12(g), July 7, 1958, 72 Stat. 348; Pub. L. 86-3, § 14(c), Mar. 18, 1959, 73 Stat. 10; Pub. L. 87-189, § 5, Aug. 30, 1961, 75 Stat. 417; Pub. L. 95-598, title II, § 237, Nov. 6, 1978, 92 Stat. 2667; Pub. L. 97-164, title I, § 126, Apr. 2, 1982, 96 Stat. 37.)

HISTORICAL AND REVISION NOTES

Based on section 1141(b)(1)(2)(3) of title 26, U.S.C., 1940 ed., Internal Revenue Code, title 28, U.S.C., 1940 ed., § 225(d) and sections 645, 864, 865, 1356, and 1392 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions, and section 61 of title 7 of the Canal Zone Code (Apr. 12, 1900, ch. 191, § 35, 31 Stat. 85; Mar. 3, 1911, ch. 231, § 128, 36 Stat. 1133; Aug. 24, 1912, ch. 390, § 9, 37 Stat. 566; Mar. 2, 1917, ch. 145, §§ 42, 43, 39 Stat. 966; Mar. 3, 1917, ch. 171, § 2, 39 Stat. 1132; Sept. 21, 1922, ch. 370, § 3, 42 Stat. 1006; Feb. 13, 1925, ch. 229, §§ 1, 13, 43 Stat. 936, 942; Feb. 26, 1926, ch. 27, § 1002, 44 Stat. 110; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; May 17, 1932, ch. 190, 47 Stat. 158; Feb. 16, 1933, ch. 91, § 3, 47 Stat. 817; May 10, 1934, ch. 277, § 519, 48 Stat. 760; Feb. 10, 1939, ch. 2, § 1141(b)(1)(2)(3), 53 Stat. 164).

Section consolidates the venue provisions of sections 645, 864, 1356, and 1392 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions with sections 1141(b)(1)(2)(3) to title 26, U.S.C., 1940 ed., Internal Revenue and sections 225(d) and 865 of said title 48. Other provisions of said section 864, not incorporated in this section and sections 41 and 119 of this title, were retained in title 48. Other provisions of said section 1356 are incorporated in section 1291 of this title. Other provisions of said section 1392 were also retained in title 48.

Paragraph (3) of section 1141(b) of title 26, U.S.C., 1940 ed., was omitted as executed. It made such subsection applicable to all decisions of the Board of Tax Appeals (Tax Court) rendered on and after May 10, 1934.

Provisions of section 225(d) of title 28, U.S.C., 1940 ed., for review of the decisions of the United States Court for China were omitted. (See reviser's note under section 411 of this title.)

Subsection (b) rephrases and rearranges the relevant provisions of section 1141(b)(1)(2)(3) of title 26, U.S.C., 1940 ed.

Specific reference to the United States district courts for the districts of Hawaii, Puerto Rico and District of Columbia was omitted as unnecessary, these courts being embraced in the definition of "a district court of the United States" contained in section 451 of this title.

Administrative orders, referred to in reviser's note under section 1291 of this title, are reviewable and enforceable in the following circuits:

ORDERS REVIEWABLE

(1) Alcoholic permit orders—in the District of Columbia or in the circuit where the applicant or permittee resides or has his principal place of business;

(2) Antitrust and unfair trade orders—in the circuit where unlawful act occurred or petitioner resides or carries on business;

(3) Bridge alteration; cost orders—in the circuit where bridge is wholly or partly located;

(4) Civil aeronautics orders—in the District of Columbia or circuit where petitioner resides or has his principal place of business;

(5) Commodity exchange orders—in the circuit where board of trade has its principal place of business or in circuit where petitioner for review of exclusion order carries on business;

(6) Electric and water power orders—in the District of Columbia or circuit where licensee or public utility to which order relates is located or has its principal place of business;

(7) Food, drug and cosmetic orders—in the circuit where person adversely affected resides or has his principal place of business;

(8) Gas orders—in the District of Columbia or circuit where company to which order relates is located or has its principal place of business;

(9) National Labor Relations Board's final orders—in the District of Columbia or circuit where unfair labor practice occurred or violator resides or transacts business;

(10) Packers cease and desist orders—in the circuit where packer has his principal place of business;

(11) Radio license decisions—in the District of Columbia;

(12) Securities and Exchange Commission orders—in the District of Columbia or circuit where petitioner resides or has his principal place of business;

(13) Seed orders—in the circuit where violator resides or has his principal place of business;

(14) Wage orders—in the District of Columbia or circuit where petitioner resides or has his principal place of business;

(15) Foreign Trade Zones Board orders—in the circuit where the Zone is located;

(16) Customhouse broker licenses—in circuit where applicant or licensee resides or has his principal place of business.

ORDERS ENFORCEABLE

(1) Antitrust and unfair trade orders—in the circuit where unlawful act occurred or person allegedly committing unlawful act resides or carries on business;

(2) National Labor Relations Board's final orders—in the circuit where unfair labor practice occurred or violator resides or transacts business;

(3) Seed orders—in the circuit where violator resides or has his principal place of business.

Section 61 of title 7 of the Canal Zone Code is also incorporated in sections 1291 and 1292 of this title.

Changes were made in phraseology.

By Senate amendment, this section was renumbered "1294", and subsec. (b), which related to the Tax Court, was eliminated. Therefore, as finally enacted, section 1141(b)(1)(2)(3) of Title 26, U.S.C., Internal Revenue Code 1939, was not one of the sources of this section. The Senate amendments also eliminated section 1141 of the Internal Revenue Code 1939 from the schedule of repeals. See Senate Report No. 1559.

AMENDMENTS

1982—Pub. L. 97-164 substituted "Except as provided in sections 1292(c), 1292(d), and 1295 of this title, appeals from reviewable decisions" for "Appeals from reviewable decisions" in introductory provisions.

1978—Pub. L. 95-598 directed the amendment of section by substituting "district, bankruptcy, and territorial" for "district and territorial" and by adding pars. (5) and (6) relating to panels designated under section 160(a) of this title and bankruptcy courts, respectively, which amendment 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.