

§ 2042. Withdrawal

No money deposited under section 2041 of this title shall be withdrawn except by order of court.

In every case in which the right to withdraw money deposited in court under section 2041 has been adjudicated or is not in dispute and such money has remained so deposited for at least five years unclaimed by the person entitled thereto, such court shall cause such money to be deposited in the Treasury in the name and to the credit of the United States. Any claimant entitled to any such money may, on petition to the court and upon notice to the United States attorney and full proof of the right thereto, obtain an order directing payment to him.

(June 25, 1948, ch. 646, 62 Stat. 960; Pub. L. 97-258, §2(g)(4)(D), Sept. 13, 1982, 96 Stat. 1061.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §852 (R.S. §996; Feb. 19, 1897, ch. 265, §3, 29 Stat. 578; Mar. 3, 1911, ch. 224, 36 Stat. 1083).

Words "and the money deposited as aforesaid shall constitute and be a permanent appropriation for payments in obedience to such orders" were omitted, in view of section 725p(b)(14), of title 31, U.S.C., 1940 ed., which repealed permanent appropriations of unclaimed money accounts and substituted authorization for annual appropriations effective July 1, 1935.

Changes were made in phraseology.

In U. S. Law Week, Nov. 7, 1939, Rep. Walter Chandler (Author of Chandler Act, Bankruptcy) observed as to the Judicial Code:

"Among the major subjects needing study and revision are—Numerous procedural changes which have been brought about through adoption of the Federal Rules of Civil Procedure should be codified." \* \* \*

Editorial Notes

AMENDMENTS

1982—Pub. L. 97-258 inserted references to section 2041 in two places.

§ 2043. Deposit of other moneys

Except for public moneys deposited under section 2041 of this title, each clerk of the United States courts shall deposit public moneys that the clerk collects into a checking account in the Treasury, subject to disbursement by the clerk. At the end of each accounting period, the earned part of public moneys accruing to the United States shall be deposited in the Treasury to the credit of the appropriate receipt accounts.

(Added Pub. L. 97-258, §2(g)(4)(E), Sept. 13, 1982, 96 Stat. 1061.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 28:2043, 31:725v(b)(related to clerks), June 26, 1934, ch. 756, §23(b)(related to clerks), 48 Stat. 1236; restated Dec. 21, 1944, ch. 631, §1, 58 Stat. 845.

The words "Except for public moneys deposited under section 2041 of this title . . . public moneys" are substituted for "All fees and other collections other than moneys referred to in subsection (a) of this section" for consistency and because 31:725v(a) is superseded by 28:2041 and is not part of the revised title contained in section 1 of the bill. The word "Treasury" is sub-

stituted for "Treasurer of the United States" because of section 1 of Reorganization Plan No. 26 of 1950 (eff. July 31, 1950, 64 Stat. 1280), restated as section 321 of the revised title contained in section 1 of the bill. The text of 31:725v(b)(last sentence) is omitted as obsolete.

§ 2044. Payment of fine with bond money

On motion of the United States attorney, the court shall order any money belonging to and deposited by or on behalf of the defendant with the court for the purposes of a criminal appearance bail bond (trial or appeal) to be held and paid over to the United States attorney to be applied to the payment of any assessment, fine, restitution, or penalty imposed upon the defendant. The court shall not release any money deposited for bond purposes after a plea or a verdict of the defendant's guilt has been entered and before sentencing except upon a showing that an assessment, fine, restitution or penalty cannot be imposed for the offense the defendant committed or that the defendant would suffer an undue hardship. This section shall not apply to any third party surety.

(Added Pub. L. 101-647, title XXXVI, §3629(a), Nov. 29, 1990, 104 Stat. 4966.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 180 days after Nov. 29, 1990, see section 3631 of Pub. L. 101-647, set out as a note under section 3001 of this title.

§ 2045. Investment of court registry funds

(a) The Director of the Administrative Office of the United States Courts, or the Director's designee under subsection (b), may request the Secretary of the Treasury to invest funds received under section 2041 in public debt securities with maturities suitable to the needs of the funds, as determined by the Director or the Director's designee, and bearing interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

(b) The Director may designate the clerk of a court described in section 610 to exercise the authority conferred by subsection (a).

(Added Pub. L. 110-406, §8(a), Oct. 13, 2008, 122 Stat. 4293.)

CHAPTER 131—RULES OF COURTS

Sec.

- 2071. Rule-making power generally.
2072. Rules of procedure and evidence; power to prescribe.
2073. Rules of procedure and evidence; method of prescribing.
2074. Rules of procedure and evidence; submission to Congress; effective date.
2075. Bankruptcy rules.
[2076. Repealed.]
2077. Publication of rules; advisory committees.

AMENDMENTS

1988—Pub. L. 100-702, title IV, §401(d), Nov. 19, 1988, 102 Stat. 4650, added items 2072 to 2075 and struck out former items 2072 "Rules of civil procedure", 2075 "Bankruptcy rules", and 2076 "Rules of evidence".

1982—Pub. L. 97-164, title II, §208(b), Apr. 2, 1982, 96 Stat. 55, added item 2077.

1975—Pub. L. 93-595, §2(a)(2), Jan. 2, 1975, 88 Stat. 1949, added item 2076.

1966—Pub. L. 89-773, §3, Nov. 6, 1966, 80 Stat. 1323, struck out “for district courts” in item 2072 and struck out items 2073 and 2074.

1964—Pub. L. 88-623, §2, Oct. 3, 1964, 78 Stat. 1001, added item 2075.

1954—Act July 27, 1954, ch. 583, §2, 68 Stat. 567, added item 2074.

### § 2071. Rule-making power generally

(a) The Supreme Court and all courts established by Act of Congress may from time to time prescribe rules for the conduct of their business. Such rules shall be consistent with Acts of Congress and rules of practice and procedure prescribed under section 2072 of this title.

(b) Any rule prescribed by a court, other than the Supreme Court, under subsection (a) shall be prescribed only after giving appropriate public notice and an opportunity for comment. Such rule shall take effect upon the date specified by the prescribing court and shall have such effect on pending proceedings as the prescribing court may order.

(c)(1) A rule of a district court prescribed under subsection (a) shall remain in effect unless modified or abrogated by the judicial council of the relevant circuit.

(2) Any other rule prescribed by a court other than the Supreme Court under subsection (a) shall remain in effect unless modified or abrogated by the Judicial Conference.

(d) Copies of rules prescribed under subsection (a) by a district court shall be furnished to the judicial council, and copies of all rules prescribed by a court other than the Supreme Court under subsection (a) shall be furnished to the Director of the Administrative Office of the United States Courts and made available to the public.

(e) If the prescribing court determines that there is an immediate need for a rule, such court may proceed under this section without public notice and opportunity for comment, but such court shall promptly thereafter afford such notice and opportunity for comment.

(f) No rule may be prescribed by a district court other than under this section.

(June 25, 1948, ch. 646, 62 Stat. 961; May 24, 1949, ch. 139, §102, 63 Stat. 104; Pub. L. 100-702, title IV, §403(a)(1), Nov. 19, 1988, 102 Stat. 4650.)

#### HISTORICAL AND REVISION NOTES

##### 1948 ACT

Based on title 28, U.S.C., 1940 ed., §§219, 263, 296, 307, 723, 731, and 761, and section 1111 of title 26, U.S.C., 1940 ed., Internal Revenue Code (R.S. §§913, 918; Mar. 3, 1887, ch. 359, §4, 24 Stat. 506; Mar. 3, 1911, ch. 231, §§122, 157, 194, 291, 297, 36 Stat. 1132, 1139, 1145, 1167, 1168; Mar. 3, 1911, ch. 231, §187(a), as added Oct. 10, 1940, ch. 843, §1, 54 Stat. 1101; Feb. 13, 1925, ch. 229, §13, 43 Stat. 941; Mar. 2, 1929, ch. 488, §1, 45 Stat. 1475; Feb. 10, 1939, ch. 2, §1111, 53 Stat. 160; Oct. 21, 1942, ch. 619, title V, §504(a), (c), 56 Stat. 957).

Sections 219, 263, 296, 307, 723, and 731 of title 28, U.S.C., 1940 ed., gave specified courts, other than the Supreme Court, power to make rules. Section 761 of such title related to rules established in the district courts and Court of Claims. Section 1111 of title 26, U.S.C., 1940 ed., related to Tax Court. This section consolidates all such provisions. For other provisions of such sections, see Distribution Table.

Recognition by Congress of the broad rule-making power of the courts will make it possible for the courts

to prescribe complete and uniform modes of procedure, and alleviate, at least in part, the necessity of searching in two places, namely in the Acts of Congress and in the rules of the courts, for procedural requisites.

Former Attorney General Cummings recently said: “Legislative bodies have neither the time to inquire objectively into the details of judicial procedure nor the opportunity to determine the necessity for amendment or change. Frequently such legislation has been enacted for the purpose of meeting particular problems or supposed difficulties, but the results have usually been confusing or otherwise unsatisfactory. Comprehensive action has been lacking for the obvious reason that the professional nature of the task would leave the legislature little time for matters of substance and statesmanship. It often happened that an admitted need for change, even in limited areas, could not be secured.”—The New Criminal Rules—Another Triumph of the Democratic Process. American Bar Association Journal, May 1945.

Provisions of sections 263 and 296 of title 28, U.S.C., 1940 ed., authorizing the Court of Claims and Customs Court to punish for contempt, were omitted as covered by H. R. 1600, §401, 80th Congress, for revision of the Criminal Code.

Provisions of section 1111 of title 26, U.S.C., 1940 ed., making applicable to Tax Court Proceedings “the rules of evidence applicable in the courts of the District of Columbia in the type of proceeding which, prior to Sept. 16, 1938, were within the jurisdiction of the courts of equity of said District,” were omitted as unnecessary and inconsistent with other provisions of law relating to the Federal courts. The rules of evidence in Tax Court proceedings are the same as those which apply to civil procedure in other courts. See *Dempster Mill. Mfg. Co. v. Burnet*, 1931, 46 F.2d 604, 60 App.D.C. 23.

For rule-making power of the Supreme Court in copyright infringement actions, see section 25(e) of title 17, U.S.C., 1940 ed., Copyrights. See, also, section 205(a) of title 11, U.S.C., 1940 ed., Bankruptcy, authorizing the Supreme Court to promulgate rules relating to service of process in railroad reorganization proceedings.

#### SENATE REVISION AMENDMENT

By Senate amendment, all provisions relating to the Tax Court were eliminated. Therefore, section 1111 of Title 26, U.S.C., Internal Revenue Code, was not one of the sources of this section as finally enacted. However, no change in the text of this section was necessary. See 80th Congress Senate Report No. 1559.

##### 1949 ACT

This amendment clarifies section 2071 of title 28, U.S.C., by giving express recognition to the power of the Supreme Court to prescribe its own rules and by giving a better description of its procedural rules.

#### Editorial Notes

##### AMENDMENTS

1988—Pub. L. 100-702 designated existing provisions as subsec. (a), substituted “under section 2072 of this title” for “by the Supreme Court”, and added subsecs. (b) to (f).

1949—Act May 24, 1949, expressed recognition to the Supreme Court’s power to prescribe its own rules and give a better description of its procedural rules.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-702, title IV, §407, Nov. 19, 1988, 102 Stat. 4652, provided that: “This title [enacting sections 2072 to 2074 of this title, amending this section, sections 331, 332, 372, 604, 636, and 2077 of this title, section 460n-8 of Title 16, Conservation, and section 3402 of Title 18, Crimes and Criminal Procedure, repealing former section 2072 and section 2076 of this title and sections 3771