

United States attorneys for the Eastern District of New York to reside outside the district but within 20 miles thereof.

1978—Subsec. (a). Pub. L. 95-530 inserted provision that this subsection not apply to any United States attorney or assistant United States attorney appointed for the Northern Mariana Islands who at the same time is serving in the same capacity in another district.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-177, title V, §501(b), Mar. 9, 2006, 120 Stat. 246, provided that: "The amendment made by subsection (a) [amending this section] shall take effect as of February 1, 2005."

§ 546. Vacancies

(a) Except as provided in subsection (b), the Attorney General may appoint a United States attorney for the district in which the office of United States attorney is vacant.

(b) The Attorney General shall not appoint as United States attorney a person to whose appointment by the President to that office the Senate refused to give advice and consent.

(c) A person appointed as United States attorney under this section may serve until the earlier of—

- (1) the qualification of a United States attorney for such district appointed by the President under section 541 of this title; or
- (2) the expiration of 120 days after appointment by the Attorney General under this section.

(d) If an appointment expires under subsection (c)(2), the district court for such district may appoint a United States attorney to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of the court.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 618; amended Pub. L. 99-646, §69, Nov. 10, 1986, 100 Stat. 3616; Pub. L. 109-177, title V, §502, Mar. 9, 2006, 120 Stat. 246; Pub. L. 110-34, §2, June 14, 2007, 121 Stat. 224.)

HISTORICAL AND REVISION NOTES
1966 ACT

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 28 U.S.C. 506. [None].

1948 ACT

Prior section 506.—Based on title 28, U.S.C., 1940 ed., §511 (R.S. §793; June 24, 1898, ch. 495, §2, 30 Stat. 487; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167).

Words "United States attorney" were substituted for "district attorney." (See Reviser's Note under section 501 [now 541] of this title.)

Words "The Supreme Court of the Territory, and the district court of the United States for the District of Columbia" were omitted as obsolete. This section, as revised, applies to all districts enumerated in chapter 5 of this title. There were no provisions respecting vacancies in Hawaii and Puerto Rico. Therefore this section remedies this situation and establishes a uniform method to fill interim vacancies.

Words "and a copy shall be entered on the journal of the court" after "filed in the clerk's office of said court", in section 511 of title 28, U.S.C., 1940 ed., were omitted as unnecessary.

The provisions of section 511 of title 28, U.S.C., 1940 ed., relating to marshals, are incorporated in sections

544 and 545 [see Prior Provisions notes under those sections] of this title.

Changes were made in phraseology.

Editorial Notes

PRIOR PROVISIONS

A prior section 546, act June 25, 1948, ch. 646, 62 Stat. 911, related to death of a marshal, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 566 of this title by section 4(c) of Pub. L. 89-554.

AMENDMENTS

2007—Subsecs. (c), (d). Pub. L. 110-34 added subsecs. (c) and (d) and struck out former subsec. (c) which read as follows: "A person appointed as United States attorney under this section may serve until the qualification of a United States Attorney for such district appointed by the President under section 541 of this title."

2006—Subsecs. (c), (d). Pub. L. 109-177 added subsec. (c) and struck out former subsecs. (c) and (d) which related to length of service of a United States attorney appointed under this section and appointment of a United States attorney by a district court after expiration of a previous appointment, respectively.

1986—Pub. L. 99-646 amended section generally. Prior to amendment, section read as follows: "The district court for a district in which the office of United States attorney is vacant may appoint a United States attorney to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of the court."

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-34, §3, June 14, 2007, 121 Stat. 224, provided that:

"(a) IN GENERAL.—The amendments made by this Act [amending this section] shall take effect on the date of enactment of this Act [June 14, 2007].

"(b) APPLICATION.—

"(1) IN GENERAL.—Any person serving as a United States attorney on the day before the date of enactment of this Act [June 14, 2007] who was appointed under section 546 of title 28, United States Code, may serve until the earlier of—

"(A) the qualification of a United States attorney for such district appointed by the President under section 541 of that title; or

"(B) 120 days after the date of enactment of this Act.

"(2) EXPIRED APPOINTMENTS.—If an appointment expires under paragraph (1), the district court for that district may appoint a United States attorney for that district under section 546(d) of title 28, United States Code, as added by this Act."

§ 547. Duties

Except as otherwise provided by law, each United States attorney, within his district, shall—

(1) prosecute for all offenses against the United States;

(2) prosecute or defend, for the Government, all civil actions, suits or proceedings in which the United States is concerned;

(3) appear in behalf of the defendants in all civil actions, suits or proceedings pending in his district against collectors, or other officers of the revenue or customs for any act done by them or for the recovery of any money exacted by or paid to these officers, and by them paid into the Treasury;

(4) institute and prosecute proceedings for the collection of fines, penalties, and forfeit-