

CHAPTER 123—FEES AND COSTS

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Editorial Notes

AMENDMENTS

1996—Pub. L. 104-317, title IV, § 403(a)(2), Oct. 19, 1996, 110 Stat. 3854, added item 1932 “Judicial Panel on Multidistrict Litigation”.

Pub. L. 104-134, title I, § 101[(a)] [title VIII, §§ 805(b), 809(b)], Apr. 26, 1996, 110 Stat. 1321, 1321-75, 1321-76; renumbered title I, Pub. L. 104-140, § 1(a), May 2, 1996, 110 Stat. 1327, added item 1915A and item 1932 “Revocation of earned release credit”.

1992—Pub. L. 102-572, title IX, §§ 902(b)(2), 908(b)(2), Oct. 29, 1992, 106 Stat. 4516, 4519, substituted “Dismissal” for “District courts; dismissal” in item 1919 and “Court of Federal Claims” for “Claims Court” as item 1926.

1988—Pub. L. 100-702, title X, § 1020(a)(8), Nov. 19, 1988, 102 Stat. 4672, substituted “court” for “courts” after “District” in item 1914.

1986—Pub. L. 99-500, § 101(b) [title IV, § 407(d)], Oct. 18, 1986, 100 Stat. 1783-39, 1783-64, and Pub. L. 99-591, § 101(b) [title IV, § 407(d)], Oct. 30, 1986, 100 Stat. 3341-39, 3341-64, added item 1931.

1984—Pub. L. 98-353, title I, § 111(c), July 10, 1984, 98 Stat. 343, substituted “fees” for “courts” in item 1930. Notwithstanding directory language that the amendment be made to the table of sections for chapter 125 of this title, the amendment was executed to the table of sections for chapter 123 of this title to reflect the probable intent of Congress.

1982—Pub. L. 97-164, title I, § 139(p)(2), Apr. 2, 1982, 96 Stat. 44, substituted “Claims Court” for “Court of Customs and Patent Appeals” in item 1926.

1978—Pub. L. 95-598, title II, § 246(b), Nov. 6, 1978, 92 Stat. 2672, added item 1930.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

“United States magistrate judges” substituted for “United States magistrates” in item 1922 pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title. Previously, “United States

magistrates” substituted for “United States commissioners” pursuant to Pub. L. 90-578. See chapter 43 (§ 631 et seq.) of this title.

§ 1911. Supreme Court

The Supreme Court may fix the fees to be charged by its clerk.

The fees of the clerk, cost of serving process, and other necessary disbursements incidental to any case before the court, may be taxed against the litigants as the court directs.

(June 25, 1948, ch. 646, 62 Stat. 954.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 330 (Mar. 3, 1911, ch. 231, § 223, 36 Stat. 1153).

The second paragraph was inserted to give statutory sanction to existing practice.

Changes were made in phraseology.

§ 1912. Damages and costs on affirmance

Where a judgment is affirmed by the Supreme Court or a court of appeals, the court in its discretion may adjudge to the prevailing party just damages for his delay, and single or double costs.

(June 25, 1948, ch. 646, 62 Stat. 954.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 878, and section 1141(c)(4) of title 26 U.S.C., 1940 ed., Internal Revenue Code (R.S. § 1010; Mar. 3, 1911, ch. 231, §§ 117, 289, 36 Stat. 1131, 1167; Feb. 10, 1939, ch. 2, § 1141(c)(4), 53 Stat. 165).

Section consolidates section 878 of title 28 with section 1141(c)(4) of title 26, both U.S.C., 1940 ed., with changes in phraseology necessary to effect consolidation.

Words “prevailing party” were substituted for “the respondents in error,” contained in said section 878 of title 28, since writs of error have been abolished.

SENATE REVISION AMENDMENT

By Senate amendment, all provisions relating to the Tax Court were eliminated. Therefore, section 1141(c)(4) 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.

§ 1913. Courts of appeals

The fees and costs to be charged and collected in each court of appeals shall be prescribed from time to time by the Judicial Conference of the United States. Such fees and costs shall be reasonable and uniform in all the circuits.

(June 25, 1948, ch. 646, 62 Stat. 954.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 543 (Mar. 3, 1891, ch. 517, § 2, 26 Stat. 826; Feb. 19, 1897, ch. 263, 29 Stat. 536; Sept. 27, 1944, ch. 413, 58 Stat. 743).

Words “and in the United States Circuit Court of Appeals for the District of Columbia” were omitted as covered by “each court of appeals.”

Judicial Conference of Senior Circuit Judges was changed to Judicial Conference “of the United States” in conformity with section 331 of this title.

Changes were made in phraseology.

Statutory Notes and Related Subsidiaries

APPEALS FILED IN COURTS OF APPEALS

Pub. L. 109-171, title X, § 10001(b), Feb. 8, 2006, 120 Stat. 183, provided that: “The \$250 fee for docketing a

¹ So in original. Two sections 1932 have been enacted.

case on appeal or review, or docketing any other proceeding, in a court of appeals, as prescribed by the Judicial Conference, effective as of January 1, 2005, under section 1913 of title 28, United States Code, shall be increased to \$450.”

COURT FEES FOR ELECTRONIC ACCESS TO INFORMATION

Pub. L. 102-140, title III, §303, Oct. 28, 1991, 105 Stat. 810, as amended by Pub. L. 104-317, title IV, §403(b), Oct. 19, 1996, 110 Stat. 3854; Pub. L. 107-347, title II, §205(e), Dec. 17, 2002, 116 Stat. 2915, provided that:

“(a) The Judicial Conference may, only to the extent necessary, prescribe reasonable fees, pursuant to sections 1913, 1914, 1926, 1930, and 1932 of title 28, United States Code, for collection by the courts under those sections for access to information available through automatic data processing equipment. These fees may distinguish between classes of persons, and shall provide for exempting persons or classes of persons from the fees, in order to avoid unreasonable burdens and to promote public access to such information. The Director of the Administrative Office of the United States Courts, under the direction of the Judicial Conference of the United States, shall prescribe a schedule of reasonable fees for electronic access to information which the Director is required to maintain and make available to the public.

“(b) The Judicial Conference and the Director shall transmit each schedule of fees prescribed under paragraph (a) to the Congress at least 30 days before the schedule becomes effective. All fees hereafter collected by the Judiciary under paragraph (a) as a charge for services rendered shall be deposited as offsetting collections to the Judiciary Automation Fund pursuant to 28 U.S.C. 612(c)(1)(A) to reimburse expenses incurred in providing these services.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 101-515, title IV, §404, Nov. 5, 1990, 104 Stat. 2132.

§ 1914. District court; filing and miscellaneous fees; rules of court

(a) The clerk of each district court shall require the parties instituting any civil action, suit or proceeding in such court, whether by original process, removal or otherwise, to pay a filing fee of \$350, except that on application for a writ of habeas corpus the filing fee shall be \$5.

(b) The clerk shall collect from the parties such additional fees only as are prescribed by the Judicial Conference of the United States.

(c) Each district court by rule or standing order may require advance payment of fees.

(June 25, 1948, ch. 646, 62 Stat. 954; Pub. L. 95-598, title II, §244, Nov. 6, 1978, 92 Stat. 2671; Pub. L. 99-336, §4(a), June 19, 1986, 100 Stat. 637; Pub. L. 99-500, §101(b) [title IV, §407(a)], Oct. 18, 1986, 100 Stat. 1783-39, 1783-64, and Pub. L. 99-591, §101(b) [title IV, §407(a)], Oct. 30, 1986, 100 Stat. 3341-39, 3341-64; Pub. L. 104-317, title IV, §401(a), Oct. 19, 1996, 110 Stat. 3853; Pub. L. 108-447, div. B, title III, §307(a), Dec. 8, 2004, 118 Stat. 2895; Pub. L. 109-171, title X, §10001(a), Feb. 8, 2006, 120 Stat. 183.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§549, 553 and 555 (R.S. §828; June 28, 1902, ch. 1301, §1, 32 Stat. 476; Feb. 11, 1925, ch. 204, §§2, 6, 8, 43 Stat. 857, 858; Jan. 22, 1927, ch. 50, §2, 44 Stat. 1023; Jan. 31, 1928, ch. 14, §1, 45 Stat. 54; Mar. 3, 1942, ch. 124, §2, 56 Stat. 122; Sept. 27, 1944, ch. 414, §§1, 4, 5, 58 Stat. 743, 744).

Section consolidates sections 549, 553, and 555 of title 28, U.S.C., 1940 ed., as amended with necessary changes of phraseology.

The phrase “filing fee” was substituted for the inconsistent and misleading words of sections 549 and 553 of title 28, U.S.C., 1940 ed., “as full payment for all services to be rendered by the clerk” etc. thus removing the necessity for including exceptions and referring to other sections containing provisions for additional fees.

The provision in section 549 of title 28, U.S.C., 1940 ed., for payment of fees by the parties instituting criminal proceedings by indictment or information, was omitted. Such proceedings are instituted only by the United States from which costs cannot be exacted.

The provision in section 549 of title 28, U.S.C., 1940 ed., for taxation of fees as costs, was omitted as covered by section 1920 of this title.

Words “or appeal from a deportation order of a United States Commissioner” in section 553 of title 28, U.S.C., 1940 ed., were omitted as obsolete since repeal of the Chinese Exclusion Act by act Dec. 17, 1943, ch. 344, §1, 57 Stat. 600. Appeal was formerly conferred by section 282 of title 8, U.S.C., 1940 ed., Aliens and Nationality.

Subsection (d) excepting the District of Columbia, was added to preserve the existing schedule of fees prescribed by section 11-1509 of the District of Columbia Code, 1940 ed.

Editorial Notes

CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-171 substituted “\$350” for “\$250”.

2004—Subsec. (a). Pub. L. 108-447 substituted “\$250” for “\$150”.

1996—Subsec. (a). Pub. L. 104-317 substituted “\$150” for “\$120”.

1986—Subsec. (a). Pub. L. 99-500 and Pub. L. 99-591 substituted “\$120” for “\$60”.

Subsec. (d). Pub. L. 99-336 struck out subsec. (d) which provided that section was not applicable to District of Columbia.

1978—Subsec. (a). Pub. L. 95-598 substituted “\$60” for “\$15”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-171, title X, §10001(d), Feb. 8, 2006, 120 Stat. 184, provided that: “This section [amending this section and enacting provisions set out as notes under sections 1913 and 1931 of this title] and the amendment made by this section shall take effect 60 days after the date of the enactment of this Act [Feb. 8, 2006].”

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-447, div. B, title III, §307(c), Dec. 8, 2004, 118 Stat. 2895, provided that: “This section [amending this section and section 1931 of this title] shall take effect 60 days after the date of the enactment of this Act [Dec. 8, 2004].”

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-317, title IV, §401(c), Oct. 19, 1996, 110 Stat. 3854, provided that: “This section [amending this section and section 1931 of this title] shall take effect 60 days after the date of the enactment of this Act [Oct. 19, 1996].”

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-336, §4(c), June 19, 1986, 100 Stat. 638, provided that: “The amendments made by this section [amending this section] shall apply with respect to any civil action, suit, or proceeding instituted on or after the date of the enactment of this Act [June 19, 1986].”

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(c) of Pub. L. 95-598, set out as an Effect-