

law as to the finality of an order of remand to a State court is continued. This section also amends renumbered subsection (c) to remove any doubt that the former law authorizing the district court upon remand to order payment of costs is continued.

Editorial Notes

AMENDMENTS

2011—Subsec. (d). Pub. L. 112-51 inserted “1442 or” before “1443”.

1996—Subsec. (c). Pub. L. 104-219 substituted “any defect other than lack of subject matter jurisdiction” for “any defect in removal procedure” in first sentence.

1991—Subsec. (b). Pub. L. 102-198 substituted “removing party” for “petitioner”.

1988—Subsec. (c). Pub. L. 100-702, § 1016(c)(1), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “If at any time before final judgment it appears that the case was removed improvidently and without jurisdiction, the district court shall remand the case, and may order the payment of just costs. A certified copy of the order of remand shall be mailed by its clerk to the clerk of the State court. The State court may thereupon proceed with such case.”

Subsec. (e). Pub. L. 100-702, § 1016(c)(2), added subsec. (e).

1964—Subsec. (d). Pub. L. 88-352, inserted exception provision.

1949—Subsec. (c). Act May 24, 1949, § 84(a), struck out former subssecs. (c) and (d), renumbered former subsec. (e) to be subsec. (c) and inserted at end of first sentence of new subsec. (c) “and may order the payment of just costs”.

Subsec. (d). Act May 24, 1949, § 84(b), added subsec. (d).

Statutory Notes and Related Subsidiaries

EXCEPTION TO SUBSECTION (d)

Act Aug. 4, 1947, ch. 458, § 3(c), 61 Stat. 732, provides in part that the United States shall have the right to appeal from any order of remand entered in any case removed to a United States district court pursuant to the provisions of act Apr. 12, 1926, ch. 115, 44 Stat. 239. These acts referred to herein relate to restrictions on land of the Five Civilized Tribes of Oklahoma and are set out as notes under section 355 of Title 25, Indians.

§ 1448. Process after removal

In all cases removed from any State court to any district court of the United States in which any one or more of the defendants has not been served with process or in which the service has not been perfected prior to removal, or in which process served proves to be defective, such process or service may be completed or new process issued in the same manner as in cases originally filed in such district court.

This section shall not deprive any defendant upon whom process is served after removal of his right to move to remand the case.

(June 25, 1948, ch. 646, 62 Stat. 940.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 83 (Apr. 16, 1920, ch. 146, 41 Stat. 554).

Words “district court of the United States” were substituted for “United States Court,” because only the district courts now possess jurisdiction over removed civil and criminal cases.

Changes were made in phraseology.

§ 1449. State court record supplied

Where a party is entitled to copies of the records and proceedings in any suit or prosecution

in a State court, to be used in any district court of the United States, and the clerk of such State court, upon demand, and the payment or tender of the legal fees, fails to deliver certified copies, the district court may, on affidavit reciting such facts, direct such record to be supplied by affidavit or otherwise. Thereupon such proceedings, trial, and judgment may be had in such district court, and all such process awarded, as if certified copies had been filed in the district court.

(June 25, 1948, ch. 646, 62 Stat. 940; May 24, 1949, ch. 139, § 85, 63 Stat. 102.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 28, U.S.C., 1940 ed., § 78 (Mar. 3, 1911, ch. 231, § 35, 36 Stat. 1098).

Changes were made in phraseology.

1949 ACT

This section corrects a typographical error by eliminating from section 1449 of title 28, U.S.C., the words “any attachment or sequestration of the”, which had been inadvertently included, and inserting in lieu thereof the words, “and the clerk of such State court, upon”.

Editorial Notes

AMENDMENTS

1949—Act May 24, 1949, substituted “and the clerk of such State court, upon” for “any attachment or sequestration of the”.

§ 1450. Attachment or sequestration; securities

Whenever any action is removed from a State court to a district court of the United States, any attachment or sequestration of the goods or estate of the defendant in such action in the State court shall hold the goods or estate to answer the final judgment or decree in the same manner as they would have been held to answer final judgment or decree had it been rendered by the State court.

All bonds, undertakings, or security given by either party in such action prior to its removal shall remain valid and effectual notwithstanding such removal.

All injunctions, orders, and other proceedings had in such action prior to its removal shall remain in full force and effect until dissolved or modified by the district court.

(June 25, 1948, ch. 646, 62 Stat. 940.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 79 (Mar. 3, 1911, ch. 231, § 36, 36 Stat. 1098).

Changes were made in phraseology.

§ 1451. Definitions

For purposes of this chapter—

(1) The term “State court” includes the Superior Court of the District of Columbia.

(2) The term “State” includes the District of Columbia.

(Added Pub. L. 91-358, title I, § 172(d)(1), July 29, 1970, 84 Stat. 591.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective first day of seventh calendar month which begins after July 29, 1970, see section 199(a) of