

## HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §41(1) (Mar. 3, 1911, ch. 231, §24, par. 1, 36 Stat. 1091; May 14, 1934, ch. 283, §1, 48 Stat. 775; Aug. 21, 1937, ch. 726, §1, 50 Stat. 738; Apr. 20, 1940, ch. 117, 54 Stat. 143).

Jurisdiction of federal questions arising under other sections of this chapter is not dependent upon the amount in controversy. (See annotations under former section 41 of title 28, U.S.C.A., and 35 C.J.S., p. 833 et seq., §§30-43. See, also, reviser's note under section 1332 of this title.)

Words "wherein the matter in controversy exceeds the sum or value of \$3,000, exclusive of interest and costs," were added to conform to rulings of the Supreme Court. See construction of provision relating to jurisdictional amount requirement in cases involving a Federal question in *United States v. Sayward*, 16 S.Ct. 371, 160 U.S. 493, 40 L.Ed. 508; *Fishback v. Western Union Tel. Co.*, 16 S.Ct. 506, 161 U.S. 96, 40 L.Ed. 630; and *Halt v. Indiana Manufacturing Co.*, 1900, 20 S.Ct. 272, 176 U.S. 68, 44 L.Ed. 374.

Words "all civil actions" were substituted for "all suits of a civil nature, at common law or in equity" to conform with Rule 2 of the Federal Rules of Civil Procedure.

Words "or treaties" were substituted for "or treaties made, or which shall be made under their authority," for purposes of brevity.

The remaining provisions of section 41(1) of title 28, U.S.C., 1940 ed., are incorporated in sections 1332, 1341, 1342, 1345, 1354, and 1359 of this title.

Changes were made in arrangement and phraseology.

## AMENDMENTS

1980—Pub. L. 96-486 struck out "amount in controversy; costs" in section catchline, struck out minimum amount in controversy requirement of \$10,000 for original jurisdiction in federal question cases which necessitated striking the exception to such required minimum amount that authorized original jurisdiction in actions brought against the United States, any agency thereof, or any officer or employee thereof in an official capacity, struck out provision authorizing the district court except where express provision therefore was made in a federal statute to deny costs to a plaintiff and in fact impose such costs upon such plaintiff where plaintiff was adjudged to be entitled to recover less than the required amount in controversy, computed without regard to set-off or counterclaim and exclusive of interests and costs, and struck out existing subsection designations.

1976—Subsec. (a). Pub. L. 94-574 struck out \$10,000 jurisdictional amount where action is brought against the United States, any agency thereof, or any officer or employee thereof in his official capacity.

1958—Pub. L. 85-554 included costs in section catchline, designated existing provisions as subsec. (a), substituted "\$10,000" for "\$3,000", and added subsec. (b).

## EFFECTIVE DATE OF 1980 AMENDMENT; APPLICABILITY

Section 4 of Pub. L. 96-486 provided: "This Act [amending this section and section 2072 of Title 15, Commerce and Trade, and enacting provisions set out as a note under section 1 of this title] shall apply to any civil action pending on the date of enactment of this Act [Dec. 1, 1980]."

## EFFECTIVE DATE OF 1958 AMENDMENT

Section 3 of Pub. L. 85-554 provided that: "This Act [amending this section and sections 1332 and 1345 of this title] shall apply only in the case of actions commenced after the date of the enactment of this Act [July 25, 1958]."

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1441 of this title; title 15 section 2064; title 21 section 1603; title 22 section 6082; title 25 sections 415, 416a; title 42 section 405; title 49 section 10709.

**§ 1332. Diversity of citizenship; amount in controversy; costs**

(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between—

- (1) citizens of different States;
- (2) citizens of a State and citizens or subjects of a foreign state;
- (3) citizens of different States and in which citizens or subjects of a foreign state are additional parties; and
- (4) a foreign state, defined in section 1603(a) of this title, as plaintiff and citizens of a State or of different States.

For the purposes of this section, section 1335, and section 1441, an alien admitted to the United States for permanent residence shall be deemed a citizen of the State in which such alien is domiciled.

(b) Except when express provision therefor is otherwise made in a statute of the United States, where the plaintiff who files the case originally in the Federal courts is finally adjudged to be entitled to recover less than the sum or value of \$75,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of interest and costs, the district court may deny costs to the plaintiff and, in addition, may impose costs on the plaintiff.

(c) For the purposes of this section and section 1441 of this title—

(1) a corporation shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business, except that in any direct action against the insurer of a policy or contract of liability insurance, whether incorporated or unincorporated, to which action the insured is not joined as a party-defendant, such insurer shall be deemed a citizen of the State of which the insured is a citizen, as well as of any State by which the insurer has been incorporated and of the State where it has its principal place of business; and

(2) the legal representative of the estate of a decedent shall be deemed to be a citizen only of the same State as the decedent, and the legal representative of an infant or incompetent shall be deemed to be a citizen only of the same State as the infant or incompetent.

(d) The word "States", as used in this section, includes the Territories, the District of Columbia, and the Commonwealth of Puerto Rico.

(June 25, 1948, ch. 646, 62 Stat. 930; July 26, 1956, ch. 740, 70 Stat. 658; Pub. L. 85-554, §2, July 25, 1958, 72 Stat. 415; Pub. L. 88-439, §1, Aug. 14, 1964, 78 Stat. 445; Pub. L. 94-583, §3, Oct. 21, 1976, 90 Stat. 2891; Pub. L. 100-702, title II, §§201(a), 202(a), 203(a), Nov. 19, 1988, 102 Stat. 4646; Pub. L. 104-317, title II, §205(a), Oct. 19, 1996, 110 Stat. 3850.)

## HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §41(1) (Mar. 3, 1911, ch. 231, §24, par. 1, 36 Stat. 1091; May 14, 1934, ch. 283, §1, 48 Stat. 775; Aug. 21, 1937, ch. 726, §1, 50 Stat. 738; Apr. 20, 1940, ch. 117, 54 Stat. 143).

Other provisions of section 41(1) of title 28, U.S.C., 1940 ed., are incorporated in sections 1331, 1341, 1342, 1345, 1354, and 1359 of this title. (See reviser's notes under said sections.)

Jurisdiction conferred by other sections of this chapter, except section 1335, is not dependent upon diversity of citizenship. (See annotations under former section 41 of title 28, U.S.C.A., and 35 C.J.S., p. 833 et seq. §§30-43. See, also, reviser's note under section 1331 of this title.) As to citizenship of bank where jurisdiction depends upon diversity of citizenship, see section 1348 of this title.

Words "all civil actions" were substituted for "all suits of a civil nature, at common law or in equity" in order to conform to Rule 2 of the Federal Rules of Civil Procedure.

Words "or citizens of the District of Columbia, Territory of Hawaii, or Alaska, and any State or Territory" which were inserted by the amendatory act April 20, 1940, are omitted. The word "States" is defined in this section and enumeration of the references is unnecessary.

The revised section conforms with the views of Philip F. Herrick, United States Attorney, Puerto Rico, who observed that the act of April 20, 1940, permitted action between a citizen of Hawaii and of Puerto Rico, but not between a citizen of New York and Puerto Rico, in the district court.

This changes the law to insure uniformity. The 1940 amendment applied only to the provision as to controversies between "citizens of different States." The new definition in subsection (b) extends the 1940 amendment to apply to controversies between citizens of the Territories or the District of Columbia, and foreign states or citizens or subjects thereof.

The diversity of citizenship language of section 41(1) of title 28, U.S.C., 1940 ed., as amended in 1940, was described as ambiguous in *McGarry v. City of Bethlehem*, 45 F.Supp. 385, 386. In that case the 1940 amendment was held unconstitutional insofar as it affected the District of Columbia. However, two other district courts upheld the amendment. *Winkler v. Daniels*, D.C.Va. 1942, 43 F.Supp. 265; *Glaeser v. Acacia Mutual Life Ass'n.*, D.C.Cal. 1944, 55 F.Supp. 925.

This section is intended to cover all diversity of citizenship instances in civil actions in accordance with the judicial construction of the language in the original section 41(1) of title 28, U.S.C., 1940 ed. Therefore, the revised language covers civil actions between—

Citizens of a State, and citizens of other States and foreign states or citizens or subjects thereof;

Citizens of a Territory or the District of Columbia, and foreign states or citizens or subjects thereof;

Citizens of different States;

Citizens of different Territories;

Citizens of a State, and citizens of Territories;

Citizens of a State or Territory, and citizens of the District of Columbia;

Citizens of a State, and foreign states or citizens or subjects thereof.

The revised section removes an uncertainty referred to in the McGarry case, supra, as to whether Congress intended to permit citizens of the Territories or the District of Columbia to sue a State or Territory itself rather than the citizens thereof. The court observed that "Congress could hardly have had such intention."

The sentence "The foregoing provisions as to the sum or value of the matter in controversy shall not be construed to apply to any of the cases mentioned in the succeeding paragraphs of this section" was omitted as unnecessary. Those paragraphs are (2)-(28) of said section 41 of title 28, U.S.C., 1940 ed., which are revised and incorporated in this chapter and, except for those relating to actions against the United States and interpleader, contains no provision as to a sum or value necessary to confer jurisdiction. Consequently the omitted sentence is covered by excluding such requirement.

Section 41(1) of title 28, U.S.C., 1940 ed., as originally enacted, purported to include all jurisdictional provisions relating to the district courts. Subsequently,

many special jurisdictional provisions were enacted and incorporated in other titles of the U.S.C., 1940 ed., as follows:

Title	Section
7	209
7	210
7	216
7	292
7	499g
7	608a(6)
7	608c(15)(B)
7	610(b)(2)
7	648
7	1175
7	1365-1367
7	1376
7	1508(c)
8	164
8	701
8	903
9	4
9	8
9	9
11	11(a)
11	46
11	205(a)(l)
11	401
11	511
11	512
11	514-516
11	711
11	712
11	811
11	812
11	1011
11	1012
11	1013
11	1200
12	93
12	195
12	632
15	4
15	9
15	15
15	25
15	26
15	31
15	53
15	68e
15	77t
15	77v
15	77vvv
15	78u(e)
15	78u(f)
15	78aa
15	79k(d)(e)
15	79r(f)(g)
15	80a-25
15	80a-34
15	80a-35
15	80a-41(c)(e)
15	80a-43
15	80b-14
15	97
15	99
15	433
15	715d(c)
15	715i
15	717s
15	717u
16	10
16	583e
16	820
16	825m
16	825n
16	825p
17	26
17	34
21	193

<i>Title</i>	<i>Section</i>
21	332
21	355
25	314
25	345
26	3633
26	3800
27	207
29	101
29	103-109
29	160(e)
29	216
29	217
30	188
31	232
33	495
33	918
33	921
35	63
35	66
35	67
35	72a
35	90
38	445
40	257
40	270b
40	361
41	113(b)(2)
42	405(c)(5)(g)
43	546
43	1062
45	56
45	88
45	89
45	153(p)
45	159
45	185
45	228j4
45	228k
45	268
45	355(f)
46	597
46	688
46	711
46	741 et seq.
46	781 et seq.
46	941(c)
46	951
46	954
46	1114(c)
46	1128d
47	11
47	13
47	33
47	36
47	207
47	401
47	406
47	407
48	242
48	245
49	5(8)
49	9
49	16(2)
49	16(9)
49	16(12)
49	17(9)
49	19a(l)
49	20(9)
49	23
49	26(h)
49	41(1)(3)
49	43
49	181(b)(c)
49	305(g)
49	322(b)
49	647
49	916
49	1017
49	1021

<i>Title</i>	<i>Section</i>
50	23
D.C. Code	11-305—11-307
D.C. Code	11-309
D.C. Code	11-324

AMENDMENTS

1996—Subsecs. (a), (b). Pub. L. 104-317 substituted “\$75,000” for “\$50,000”.

1988—Subsec. (a). Pub. L. 100-702, §201(a), substituted “\$50,000” for “\$10,000” in introductory text. Pub. L. 100-702, §203(a), inserted at end “For the purposes of this section, section 1335, and section 1441, an alien admitted to the United States for permanent residence shall be deemed a citizen of the State in which such alien is domiciled.”

Subsec. (b). Pub. L. 100-702, §201(a), substituted “\$50,000” for “\$10,000”.

Subsec. (c). Pub. L. 100-702, §202(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “For the purposes of this section and section 1441 of this title, a corporation shall be deemed a citizen of any State by which it has been incorporated and of the State where it has its principal place of business: *Provided further*, That in any direct action against the insurer of a policy or contract of liability insurance, whether incorporated or unincorporated, to which action the insured is not joined as a party-defendant, such insurer shall be deemed a citizen of the State of which the insured is a citizen, as well as of any State by which the insurer has been incorporated and of the State where it has its principal place of business.”

1976—Subsec. (a)(2). Pub. L. 94-583 substituted “and citizens or subjects of a foreign state;” for “, and foreign states or citizens or subjects thereof; and”.

Subsec. (a)(3). Pub. L. 94-583 substituted “citizens or subjects of a foreign state are additional parties; and” for “foreign states or citizens or subjects thereof are additional parties”.

Subsec. (a)(4). Pub. L. 94-583 added par. (4).

1964—Subsec. (c). Pub. L. 88-439 inserted proviso deeming an insurer of liability insurance, in an action to which the insurer is not joined as a party-defendant, a citizen, of the State of which the insured is a citizen, as well as the State the insurer has been incorporated by and the State where it has its principal place of business.

1958—Pub. L. 85-554 included costs in section catch-line.

Subsec. (a). Pub. L. 85-554 substituted “\$10,000” for “\$3,000”.

Subsecs. (b) to (d). Pub. L. 85-554 added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

1956—Subsec. (b). Act July 26, 1956, included the Commonwealth of Puerto Rico.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 205(b) of Pub. L. 104-317 provided that: “The amendment made by this section [amending this section] shall take effect 90 days after the date of enactment of this Act [Oct. 19, 1996].”

EFFECTIVE DATE OF 1988 AMENDMENT

Section 201(b) of title II of Pub. L. 100-702 provided that: “The amendments made by this section [amending this section] shall apply to any civil action commenced on or after the 180th day after the date of enactment of this title [Nov. 19, 1988].”

Section 202(b) of title II of Pub. L. 100-702 provided that: “The amendment made by this section [amending this section] shall apply to any civil action commenced in or removed to a United States district court on or after the 180th day after the date of enactment of this title [Nov. 19, 1988].”

Section 203(b) of title II of Pub. L. 100-702 provided that: “The amendment made by this section [amending this section] shall apply to claims in civil actions commenced in or removed to the United States district courts on or after the 180th day after the date of enactment of this title [Nov. 19, 1988].”