

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-651 effective Jan. 1, 1987, see section 203 of Pub. L. 99-651, set out as a note under section 155 of this title.

§ 375. Recall of certain judges and magistrate judges

(a)(1) A bankruptcy judge or a United States magistrate judge appointed under chapter 43 of this title, who has retired under the provisions of section 377 of this title or under the applicable provisions of title 5 upon attaining the age and years of service requirements established in section 371(c) of this title, may agree to be recalled to serve under this section for a period of five years as a bankruptcy judge or magistrate judge, as the case may be, upon certification that substantial service is expected to be performed by such retired judge or magistrate judge during such 5-year period. With the agreement of the judge or magistrate judge involved, a certification under this subsection may be renewed for successive 5-year periods.

(2) For purposes of paragraph (1) of this subsection, a certification may be made, in the case of a bankruptcy judge or a United States magistrate,¹ by the judicial council of the circuit in which the official duty station of the judge or magistrate at the time of retirement was located.

(3) For purposes of this section, the term “bankruptcy judge” means a bankruptcy judge appointed under chapter 6 of this title or serving as a bankruptcy judge on March 31, 1984.

(b) A judge or magistrate judge recalled under this section may exercise all of the powers and duties of the office of judge or magistrate judge held at the time of retirement, including the ability to serve in any other judicial district to the extent applicable, but may not engage in the practice of law or engage in any other business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of duties as a judicial officer.

(c) During the 5-year period in which a certification under subsection (a) is in effect, the judge or magistrate judge involved shall receive, in addition to the annuity provided under the provisions of section 377 of this title or under the applicable provisions of title 5, an amount equal to the difference between that annuity and the current salary of the office to which the judge or magistrate judge is recalled. The annuity of a bankruptcy judge or magistrate judge who completes that 5-year period of service, whose certification is not renewed, and who retired under section 377 of this title shall be equal to the salary in effect, at the end of that 5-year period, for the office from which he or she retired.

(d) A certification under subsection (a) may be terminated in accordance with chapter 16 of this title, and such a certification shall be terminated upon the death of the recalled judge or magistrate judge involved.

(e) Except as provided in subsection (b), nothing in this section shall affect the right of judges or magistrate judges who retire under the provisions of chapter 83 or chapter 84 of title 5

to serve as reemployed annuitants in accordance with the provisions of title 5. A judge or magistrate judge to whom this section applies may be recalled under section 155, 636(h), or 797 of this title, as the case may be, other than during a 5-year period in which a certification under subsection (a) is in effect with respect to that judge or magistrate judge.

(f) For purposes of determining the years of service requirements in order to be eligible for recall under this section, any service as a bankruptcy judge or a United States magistrate judge, and any prior service as a referee in bankruptcy or a United States commissioner, may be credited.

(g) Except as provided in subsection (c), a judge or magistrate judge recalled under this section who retired under the applicable provisions of title 5 shall be considered to be a reemployed annuitant under chapter 83 or chapter 84, as the case may be, of title 5.

(h) The Judicial Conference of the United States may promulgate regulations to implement this section.

(Added Pub. L. 99-651, title II, § 201(b)(1), Nov. 14, 1986, 100 Stat. 3647; amended Pub. L. 100-659, § 4(b), Nov. 15, 1988, 102 Stat. 3918; Pub. L. 101-650, title III, §§ 321, 325(b)(2), Dec. 1, 1990, 104 Stat. 5117, 5121; Pub. L. 102-572, title IX, § 904(a), Oct. 29, 1992, 106 Stat. 4517; Pub. L. 107-273, div. C, title I, § 11043(d), Nov. 2, 2002, 116 Stat. 1855.)

PRIOR PROVISIONS

A prior section 375, added Aug. 28, 1954, ch. 1053, § 1, 68 Stat. 918; amended Aug. 3, 1956, ch. 944, § 1(b), 70 Stat. 1021; Aug. 22, 1972, Pub. L. 92-397, § 1, 86 Stat. 579, provided for annuities to widows of justices, prior to repeal by Pub. L. 96-504, § 5, Dec. 5, 1980, 94 Stat. 2742.

AMENDMENTS

2002—Subsec. (d). Pub. L. 107-273 substituted “chapter 16” for “section 372(c)”.

1992—Subsec. (a)(1). Pub. L. 102-572, § 904(a)(1), struck out “, a judge of the Claims Court,” after “A bankruptcy judge” and “, judge of the Claims Court,” after “a bankruptcy judge”.

Subsec. (a)(2). Pub. L. 102-572, § 904(a)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “For purposes of paragraph (1) of this subsection, a certification may be made—

“(A) in the case of a bankruptcy judge or a United States magistrate, by the judicial council of the circuit in which the official duty station of the judge or magistrate at the time of retirement was located; and

“(B) in the case of a judge of the Claims Court, by the chief judge of the United States Claims Court.”

Subsec. (a)(3). Pub. L. 102-572, § 904(a)(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “For purposes of this section—

“(A) the term ‘bankruptcy judge’ means a bankruptcy judge appointed under chapter 6 of this title or serving as a bankruptcy judge on March 31, 1984; and

“(B) the term ‘judge of the Claims Court’ means a judge of the United States Claims Court who is appointed under chapter 7 of this title or who has served under section 167 of the Federal Courts Improvement Act of 1982.”

Subsec. (f). Pub. L. 102-572, § 904(a)(4), struck out “, a judge of the Claims Court,” after “bankruptcy judge” and “, a commissioner of the Court of Claims,” after “referee in bankruptcy”.

1990—Subsec. (a)(1). Pub. L. 101-650 substituted “section 377 of this title” for “section 377 of title”.

1988—Subsec. (a)(1). Pub. L. 100-659, § 4(b)(1), inserted “under the provisions of section 377 of title or” after “has retired”.

¹ So in original. Probably should be “United States magistrate judge.”

Subsec. (c). Pub. L. 100-659, §4(b)(2), inserted “under the provisions of section 377 of this title or” after “annuity provided” and inserted at end “The annuity of a bankruptcy judge or magistrate who completes that 5-year period of service, whose certification is not renewed, and who retired under section 377 of this title shall be equal to the salary in effect, at the end of that 5-year period, for the office from which he or she retired.”

Subsec. (g). Pub. L. 100-659, §4(b)(3), inserted “who retired under the applicable provisions of title 5” after “section”.

CHANGE OF NAME

Words “magistrate judge” and “magistrate judges” substituted for “magistrate” and “magistrates”, respectively, wherever appearing in section catchline and text pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-659 effective Nov. 15, 1988, and applicable to bankruptcy judges and magistrate judges who retire on or after Nov. 15, 1988, with exception for judges and magistrate judges retiring on or after July 31, 1987, see section 9 of Pub. L. 100-659, as amended, set out as an Effective Date note under section 377 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1987, see section 203 of Pub. L. 99-651, set out as an Effective Date of 1986 Amendment note under section 155 of this title.

§ 376. Annuities for survivors of certain judicial officials of the United States

(a) For the purposes of this section—

(1) “judicial official” means:

(A) a Justice or judge of the United States, as defined by section 451 of this title;

(B) a judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands;

(C) a Director of the Administrative Office of the United States Courts, after he or she has filed a waiver under subsection (a) of section 611 of this title;

(D) a Director of the Federal Judicial Center, after he or she has filed a waiver under subsection (a) of section 627 of this title;

(E) a Counselor to the Chief Justice of the United States, after he or she has filed a waiver in accordance with both subsection (a) of section 677 and subsection (a) of section 611 of this title;

(F) a full-time bankruptcy judge or a full-time United States magistrate judge; or

(G) a judge of the United States Court of Federal Claims;

who notifies the Director of the Administrative Office of the United States Courts in writing of his or her intention to come within the purview of this section within six months after (i) the date upon which he or she takes office, (ii) the date upon which he or she marries, (iii) January 1, 1977, (iv) October 1, 1986, (v) the date of the enactment of the Retirement and Survivors’ Annuities for Bankruptcy Judges

and Magistrates Act of 1988, in the case of a full-time bankruptcy judge or United States magistrate judge in active service on that date, (vi) the date of the enactment of the Federal Courts Study Committee Implementation Act of 1990, in the case of a full-time judge of the Court of Federal Claims in active service on that date, or (vii) the date of the enactment of the Federal Courts Administration Act of 1992;

(2) “retirement salary” means:

(A) in the case of a Justice or judge of the United States, as defined by section 451 of this title, salary paid (i) after retirement from regular active service under subsection (b) of section 371 or subsection (a) of section 372 of this title, or (ii) after retirement from office by resignation on salary under subsection (a) of section 371 of this title;

(B) in the case of a judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands, (i) an annuity paid under subsection (a) of section 373 of this title or (ii) compensation paid under paragraph (4) of subsection (c) of section 373 of this title;

(C) in the case of a Director of the Administrative Office of the United States Courts, an annuity paid under subsection (b) or (c) of section 611 of this title;

(D) in the case of a Director of the Federal Judicial Center, an annuity paid under subsection (b) or (c) of section 627 of this title;

(E) in the case of a Counselor to the Chief Justice of the United States, an annuity paid in accordance with both subsection (a) of section 677 and subsection (a) of section 611 of this title;

(F) in the case of a bankruptcy judge or United States magistrate judge, an annuity paid under section 377 of this title; and

(G) in the case of a judge of the United States Court of Federal Claims, an annuity paid under section 178 of this title;

(3) “widow” means the surviving wife of a “judicial official”, who:

(A) has been married to him for at least one year on the day of his death; or

(B) is the mother of issue by that marriage;

(4) “widower” means the surviving husband of a “judicial official”, who:

(A) has been married to her for at least one year on the day of her death; or

(B) is the father of issue by that marriage;

(5) “child” means:

(A) an unmarried child under eighteen years of age, including (i) an adopted child and (ii) a stepchild or recognized natural child who lived with the judicial official in a regular parent-child relationship;

(B) such unmarried child between eighteen and twenty-two years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable educational institution. A child whose twenty-second birthday occurs