Court Rules and Judicial Documents

ADJUSTMENT OF DOLLAR AMOUNTS

The dollar amounts specified in this section were adjusted by notices of the Judicial Conference of the United States pursuant to section 104 of Title 11, Bankruptcy, as follows:

By notice dated Jan. 31, 2022, 87 F.R. 6625, effective Apr. 1, 2022, in subsec. (b), dollar amounts ''1,375'', ''20,450'', and ''25,000'' were adjusted to ''1,525'', ''22,700'', and ''27,750'', respectively. See notice of the Judicial Conference of the United States set out as a note under section 104 of Title 11.

By notice dated Feb. 5, 2019, 84 F.R. 3488, effective Apr. 1, 2019, in subsec. (b), dollar amounts ''1,300'', ''19,250'', and ''12,850'' were adjusted to ''1,375'', ''20,450'', and ''13,650'', respectively.

By notice dated Feb. 16, 2016, 81 F.R. 8748, effective Apr. 1, 2016, in subsec. (b), dollar amounts ''1,250'', ''18,675'', and ''12,475'' were adjusted to ''1,300'', ''19,250'', and ''12,850'', respectively.

By notice dated Feb. 12, 2013, 78 F.R. 12089, effective Apr. 1, 2013, in subsec. (b), dollar amounts ''1,175'', ''17,575'', and ''11,725'' were adjusted to ''1,250'', ''18,675'', and ''12,475'', respectively.

By notice dated Feb. 19, 2010, 75 F.R. 8747, effective Apr. 1, 2010, in subsec. (b), dollar amounts ''1,100'', ''16,425'', and ''10,950'' were adjusted to ''1,175'', ''17,575'', and ''11,725'', respectively.

By notice dated Feb. 7, 2007, 72 F.R. 7082, effective Apr. 1, 2007, in subsec. (b), dollar amounts ''1,000'', ''15,000'', and ''10,000'' were adjusted to ''1,100'', ''16,425'', and ''10,950'', respectively. Pub. L. 116–54 subsequently substituted ''25,000'' for ''10,000'', see 2019 Amendment note above.

§ 1410. Venue of cases ancillary to foreign proceedings

A case under chapter 15 of title 11 may be commenced in the district court of the United States for the district—

(1) in which the debtor has its principal place of business or principal assets in the United States;

(2) if the debtor does not have a place of business or assets in the United States, in which there is pending against the debtor an action or proceeding in a Federal or State court; or

(3) in a case other than those specified in paragraph (1) or (2), in which venue will be consistent with the interests of justice and the convenience of the parties, having regard to the relief sought by the foreign representative.

(Added Pub. L. 98–353, title I, § 102(a), July 10, 1984, 98 Stat. 335; amended Pub. L. 109–8, title VIII, § 802(c)(4), Apr. 20, 2005, 119 Stat. 146.)

Editorial Notes

AMENDMENTS

2005—Pub. L. 109–8 amended section generally. Prior to amendment, section related to venue of cases commenced under section 304 of title 11.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–8 effective 180 days after Apr. 20, 2005, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before such effective date, except as otherwise provided, see section 1501 of Pub. L. 109–8, set out as a note under section 101 of Title 11.

EFFECTIVE DATE

Section effective July 10, 1984, see section 122(a) of Pub. L. 98–353, set out as a note under section 151 of this title.

§ 1411. Jury trials

(a) Except as provided in subsection (b) of this section, this chapter and title 11 do not affect any right to trial by jury that an individual has under applicable nonbankruptcy law with regard to a personal injury or wrongful death tort claim.

(b) The district court may order the issues arising under section 303 of title 11 to be tried without a jury.

(Added Pub. L. 98–353, title I, § 102(a), July 10, 1984, 98 Stat. 335.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective July 10, 1984, except that subsec. (a) not applicable with respect to cases under Title 11, Bankruptcy, that are pending on July 10, 1984, or to proceedings arising in or related to such cases, see section 122(a), (b) of Pub. L. 98–353, set out as a note under section 151 of this title.

§ 1412. Change of venue

A district court may transfer a case or proceeding under title 11 to a district court for another district, in the interest of justice or for the convenience of the parties.

(Added Pub. L. 98–353, title I, § 102(a), July 10, 1984, 98 Stat. 335.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective July 10, 1984, see section 122(a) of Pub. L. 98–353, set out as a note under section 151 of this title.

§ 1413. Venue of cases under chapter 5 of title 3

Notwithstanding the preceding provisions of this chapter, a civil action under section 1346(g) may be brought in the United States district court for the district in which the employee is employed or in the United States District Court for the District of Columbia.

(Added Pub. L. 104–331, § 3(b)(2)(A), Oct. 26, 1996, 110 Stat. 4069.)

Editorial Notes

CODIFICATION

Pub. L. 104–331, § 3(b)(2)(A), which directed the amendment of chapter 37 of this title by adding this section at end, was executed by adding this section at the end of chapter 87 of this title to reflect the probable intent of Congress.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 1997, see section 3(d) of Pub. L. 104–331, set out as a note under section 1296 of this title.

CHAPTER 89—DISTRICT COURTS; REMOVAL OF CASES FROM STATE COURTS

Sec.
1441. Removal of civil actions.

Sec.
1442. Federal officers and agencies sued or prosecuted.[1]
1442a. Members of armed forces sued or prosecuted.
1443. Civil rights cases.
1444. Foreclosure action against United States.
1445. Nonremovable actions.
1446. Procedure for removal of civil actions.
1447. Procedure after removal generally.
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1450. Attachment or sequestration; securities.
1451. Definitions.
1452. Removal of claims related to bankruptcy cases.
1453. Removal of class actions.
1454. Patent, plant variety protection, and copyright cases.
1455. Procedure for removal of criminal prosecutions.

Editorial Notes

AMENDMENTS

2011—Pub. L. 112–63, title I, § 103(d)(1), Dec. 7, 2011, 125 Stat. 762, substituted ''Removal of civil actions'' for ''Actions removable generally'' in item 1441, inserted ''of civil actions'' after ''removal'' in item 1446, and added item 1455.

Pub. L. 112–29, § 19(c)(2), Sept. 16, 2011, 125 Stat. 332, added item 1454.

2005—Pub. L. 109–2, § 5(b), Feb. 18, 2005, 119 Stat. 13, added item 1453.

1996—Pub. L. 104–317, title II, § 206(b), Oct. 19, 1996, 110 Stat. 3850, inserted ''and agencies'' after ''officers'' in item 1442.

1984—Pub. L. 98–353, title I, § 103(b), July 10, 1984, 98 Stat. 335, added item 1452.

1970—Pub. L. 91–358, title I, § 172(d)(2), July 29, 1970, 84 Stat. 591, added item 1451.

1958—Pub. L. 85–554, § 5(b), July 25, 1958, 72 Stat. 416, substituted ''Nonremovable actions'' for ''Carriers; non-removable actions'' in item 1445.

1956—Act Aug. 10, 1956, ch. 1041, § 19(b), 70A Stat. 627, added item 1442a.

§ 1441. Removal of civil actions

(a) GENERALLY.—Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.

(b) REMOVAL BASED ON DIVERSITY OF CITIZENSHIP.—(1) In determining whether a civil action is removable on the basis of the jurisdiction under section 1332(a) of this title, the citizenship of defendants sued under fictitious names shall be disregarded.

(2) A civil action otherwise removable solely on the basis of the jurisdiction under section 1332(a) of this title may not be removed if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.

(c) JOINDER OF FEDERAL LAW CLAIMS AND STATE LAW CLAIMS.—(1) If a civil action includes—

(A) a claim arising under the Constitution, laws, or treaties of the United States (within the meaning of section 1331 of this title), and

(B) a claim not within the original or supplemental jurisdiction of the district court or a claim that has been made nonremovable by statute,

the entire action may be removed if the action would be removable without the inclusion of the claim described in subparagraph (B).

(2) Upon removal of an action described in paragraph (1), the district court shall sever from the action all claims described in paragraph (1)(B) and shall remand the severed claims to the State court from which the action was removed. Only defendants against whom a claim described in paragraph (1)(A) has been asserted are required to join in or consent to the removal under paragraph (1).

(d) ACTIONS AGAINST FOREIGN STATES.—Any civil action brought in a State court against a foreign state as defined in section 1603(a) of this title may be removed by the foreign state to the district court of the United States for the district and division embracing the place where such action is pending. Upon removal the action shall be tried by the court without jury. Where removal is based upon this subsection, the time limitations of section 1446(b) of this chapter may be enlarged at any time for cause shown.

(e) MULTIPARTY, MULTIFORUM JURISDICTION.—(1) Notwithstanding the provisions of subsection (b) of this section, a defendant in a civil action in a State court may remove the action to the district court of the United States for the district and division embracing the place where the action is pending if—

(A) the action could have been brought in a United States district court under section 1369 of this title; or

(B) the defendant is a party to an action which is or could have been brought, in whole or in part, under section 1369 in a United States district court and arises from the same accident as the action in State court, even if the action to be removed could not have been brought in a district court as an original matter.

The removal of an action under this subsection shall be made in accordance with section 1446 of this title, except that a notice of removal may also be filed before trial of the action in State court within 30 days after the date on which the defendant first becomes a party to an action under section 1369 in a United States district court that arises from the same accident as the action in State court, or at a later time with leave of the district court.

(2) Whenever an action is removed under this subsection and the district court to which it is removed or transferred under section 1407(j)[1] has made a liability determination requiring further proceedings as to damages, the district court shall remand the action to the State court from which it had been removed for the determination of damages, unless the court finds that, for the convenience of parties and witnesses and in the interest of justice, the action should be retained for the determination of damages.

(3) Any remand under paragraph (2) shall not be effective until 60 days after the district court

[1] So in original. Does not conform to section catchline.

[1] So in original. Section 1407 of this title does not contain a subsec. (j).

has issued an order determining liability and has certified its intention to remand the removed action for the determination of damages. An appeal with respect to the liability determination of the district court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the district court. In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination shall not be subject to further review by appeal or otherwise.

(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

(5) An action removed under this subsection shall be deemed to be an action under section 1369 and an action in which jurisdiction is based on section 1369 of this title for purposes of this section and sections 1407, 1697, and 1785 of this title.

(6) Nothing in this subsection shall restrict the authority of the district court to transfer or dismiss an action on the ground of inconvenient forum.

(f) DERIVATIVE REMOVAL JURISDICTION.—The court to which a civil action is removed under this section is not precluded from hearing and determining any claim in such civil action because the State court from which such civil action is removed did not have jurisdiction over that claim.

(June 25, 1948, ch. 646, 62 Stat. 937; Pub. L. 94–583, § 6, Oct. 21, 1976, 90 Stat. 2898; Pub. L. 99–336, § 3(a), June 19, 1986, 100 Stat. 637; Pub. L. 100–702, title X, § 1016(a), Nov. 19, 1988, 102 Stat. 4669; Pub. L. 101–650, title III, § 312, Dec. 1, 1990, 104 Stat. 5114; Pub. L. 102–198, § 4, Dec. 9, 1991, 105 Stat. 1623; Pub. L. 107–273, div. C, title I, § 11020(b)(3), Nov. 2, 2002, 116 Stat. 1827; Pub. L. 112–63, title I, § 103(a), Dec. 7, 2011, 125 Stat. 759.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 71, 114 (Mar. 3, 1911, ch. 231, §§ 28, 53, 36 Stat. 1094, 1101; Jan. 20, 1914, ch. 11, 38 Stat. 278; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54).

Section consolidates removal provisions of sections 71 and 114 of title 28, U.S.C., 1940 ed., and is intended to resolve ambiguities and conflicts of decisions.

Phrases such as "in suits of a civil nature, at law or in equity," the words "case," "cause," "suit," and the like have been omitted and the words "civil action" substituted in harmony with Rules 2 and 81(c) of the Federal Rules of Civil Procedure.

Ambiguous phrases such as "the District Court of the United States for the proper district" have been clarified by the substitution of the phrase "the district and division embracing the place where such action is pending." (See *General Investment Co. v. Lake Shore & M.S. Ry. Co.*, 1922, 43 S.Ct. 107, 112, 260 U.S. 261, 67 L.Ed. 244 and cases cited therein.)

All the provisions with reference to removal of controversies between citizens of different States because of inability, from prejudice or local influence, to obtain justice, have been discarded. These provisions, born of the bitter sectional feelings engendered by the Civil War and the Reconstruction period, have no place in the jurisprudence of a nation since united by three wars against foreign powers. Indeed, the practice of removal for prejudice or local influence has not been employed much in recent years.

Subsection (c) has been substituted for the provision in section 71 of title 28, U.S.C., 1940 ed., "and when in any suit mentioned in this section, there shall be a controversy which is wholly between citizens of different States, and which can be fully determined as between them, then either one or more of the defendants actually interested in such controversy may remove said suit into the district court of the United States."

This quoted language has occasioned much confusion. The courts have attempted to distinguish between separate and separable controversies, a distinction which is sound in theory but illusory in substance. (See 41 Harv. L. Rev. 1048; 35 Ill. L. Rev. 576.)

Subsection (c) permits the removal of a separate cause of action but not of a separable controversy unless it constitutes a separate and independent claim or cause of action within the original jurisdiction of United States District Courts. In this respect it will somewhat decrease the volume of Federal litigation.

Rules 18, 20, and 23 of the Federal Rules of Civil Procedure permit the most liberal joinder of parties, claims, and remedies in civil actions. Therefore there will be no procedural difficulty occasioned by the removal of the entire action. Conversely, if the court so desires, it may remand to the State court all nonremovable matters.

The provisions of section 71 of title 28, U.S.C., 1940 ed., with respect to removal of actions under the Federal Employer's Liability Act (U.S.C., 1940 ed., title 45, Railroads, §§ 51–60) and actions against a carrier for loss, damage, or delay to shipments under section 20 of title 49, U.S.C., 1940 ed., Transportation, are incorporated in section 1445 of this title.

Editorial Notes

AMENDMENTS

2011—Pub. L. 112–63, § 103(a)(1), substituted "Removal of civil actions" for "Actions removable generally" in section catchline.

Subsec. (a). Pub. L. 112–63, § 103(a)(2), inserted heading and in text struck out at end "For purposes of removal under this chapter, the citizenship of defendants sued under fictitious names shall be disregarded."

Subsec. (b). Pub. L. 112–63, § 103(a)(3), amended subsec. (b) generally. Prior to amendment, text read as follows: "Any civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States shall be removable without regard to the citizenship or residence of the parties. Any other such action shall be removable only if none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought."

Subsec. (c). Pub. L. 112–63, § 103(a)(4), amended subsec. (c) generally. Prior to amendment, text read as follows: "Whenever a separate and independent claim or cause of action within the jurisdiction conferred by section 1331 of this title is joined with one or more otherwise non-removable claims or causes of action, the entire case may be removed and the district court may determine all issues therein, or, in its discretion, may remand all matters in which State law predominates."

Subsec. (d). Pub. L. 112–63, § 103(a)(5), inserted heading.

Subsec. (e). Pub. L. 112–63, § 103(a)(6), inserted heading.

Subsec. (f). Pub. L. 112–63, § 103(a)(7), inserted heading.

2002—Subsecs. (e), (f). Pub. L. 107–273 added subsec. (e), redesignated former subsec. (e) as (f), and substituted "The court to which a civil action is removed under this section" for "The court to which such civil action is removed".

1991—Subsec. (c). Pub. L. 102–198 struck out comma after "title" and substituted "may" for "may may" before "remand".

1990—Subsec. (c). Pub. L. 101–650 substituted "within the jurisdiction conferred by section 1331 of this title" for ", which would be removable if sued upon alone" and "may remand all matters in which State law predominates" for "remand all matters not otherwise within its original jurisdiction".

1988—Subsec. (a). Pub. L. 100–702 inserted at end ''For purposes of removal under this chapter, the citizenship of defendants sued under fictitious names shall be disregarded.''

1986—Subsec. (e). Pub. L. 99–336 added subsec. (e).

1976—Subsec. (d). Pub. L. 94–583 added subsec. (d).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112–63 effective upon the expiration of the 30-day period beginning on Dec. 7, 2011, and applicable to any action or prosecution commenced on or after such effective date, with provisions for treatment of cases removed to Federal court, see section 105 of Pub. L. 112–63, set out as a note under section 1332 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–273 applicable to a civil action if the accident giving rise to the cause of action occurred on or after the 90th day after Nov. 2, 2002, see section 11020(c) of Pub. L. 107–273, set out as an Effective Date note under section 1369 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–336, § 3(b), June 19, 1986, 100 Stat. 637, provided that: ''The amendment made by this section [amending this section] shall apply with respect to claims in civil actions commenced in State courts on or after the date of the enactment of this section [June 19, 1986].''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–583 effective 90 days after Oct. 21, 1976, see section 8 of Pub. L. 94–583, set out as an Effective Date note under section 1602 of this title.

§ 1442. Federal officers or agencies sued or prosecuted

(a) A civil action or criminal prosecution that is commenced in a State court and that is against or directed to any of the following may be removed by them to the district court of the United States for the district and division embracing the place wherein it is pending:

(1) The United States or any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof, in an official or individual capacity, for or relating to any act under color of such office or on account of any right, title or authority claimed under any Act of Congress for the apprehension or punishment of criminals or the collection of the revenue.

(2) A property holder whose title is derived from any such officer, where such action or prosecution affects the validity of any law of the United States.

(3) Any officer of the courts of the United States, for or relating to any act under color of office or in the performance of his duties;

(4) Any officer of either House of Congress, for or relating to any act in the discharge of his official duty under an order of such House.

(b) A personal action commenced in any State court by an alien against any citizen of a State who is, or at the time the alleged action accrued was, a civil officer of the United States and is a nonresident of such State, wherein jurisdiction is obtained by the State court by personal service of process, may be removed by the defendant to the district court of the United States for the district and division in which the defendant was served with process.

(c) Solely for purposes of determining the propriety of removal under subsection (a), a law enforcement officer, who is the defendant in a criminal prosecution, shall be deemed to have been acting under the color of his office if the officer—

(1) protected an individual in the presence of the officer from a crime of violence;

(2) provided immediate assistance to an individual who suffered, or who was threatened with, bodily harm; or

(3) prevented the escape of any individual who the officer reasonably believed to have committed, or was about to commit, in the presence of the officer, a crime of violence that resulted in, or was likely to result in, death or serious bodily injury.

(d) In this section, the following definitions apply:

(1) The terms ''civil action'' and ''criminal prosecution'' include any proceeding (whether or not ancillary to another proceeding) to the extent that in such proceeding a judicial order, including a subpoena for testimony or documents, is sought or issued. If removal is sought for a proceeding described in the previous sentence, and there is no other basis for removal, only that proceeding may be removed to the district court.

(2) The term ''crime of violence'' has the meaning given that term in section 16 of title 18.

(3) The term ''law enforcement officer'' means any employee described in subparagraph (A), (B), or (C) of section 8401(17) of title 5 and any special agent in the Diplomatic Security Service of the Department of State.

(4) The term ''serious bodily injury'' has the meaning given that term in section 1365 of title 18.

(5) The term ''State'' includes the District of Columbia, United States territories and insular possessions, and Indian country (as defined in section 1151 of title 18).

(6) The term ''State court'' includes the Superior Court of the District of Columbia, a court of a United States territory or insular possession, and a tribal court.

(June 25, 1948, ch. 646, 62 Stat. 938; Pub. L. 104–317, title II, § 206(a), Oct. 19, 1996, 110 Stat. 3850; Pub. L. 112–51, § 2(a), (b), Nov. 9, 2011, 125 Stat. 545; Pub. L. 112–239, div. A, title X, § 1087, Jan. 2, 2013, 126 Stat. 1969.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 76 and 77 (Mar. 3, 1911, ch. 231, §§ 33, 34, 36 Stat. 1097, 1098; Aug. 23, 1916, ch. 399, 39 Stat. 532).

Section consolidates sections 76 and 77 of title 28, U.S.C., 1940 ed.

The revised subsection (a)(1) is extended to apply to all officers and employees of the United States or any agency thereof. Section 76 of title 28, U.S.C., 1940 ed., was limited to revenue officers engaged in the enforcement of the criminal or revenue laws.

The procedural provisions of section 76 of title 28, U.S.C., 1940 ed., are incorporated in sections 1446 and 1447 of this title. (See reviser's notes under those sections.)

Changes were made in phraseology.

Editorial Notes

AMENDMENTS

2013—Subsecs. (c), (d). Pub. L. 112–239 added subsecs. (c) and (d) and struck out former subsec. (c) which read as follows: ''As used in subsection (a), the terms 'civil action' and 'criminal prosecution' include any proceeding (whether or not ancillary to another proceeding) to the extent that in such proceeding a judicial order, including a subpoena for testimony or documents, is sought or issued. If removal is sought for a proceeding described in the previous sentence, and there is no other basis for removal, only that proceeding may be removed to the district court.''

2011—Subsec. (a). Pub. L. 112–51, § 2(a)(1), inserted ''that is'' after ''or criminal prosecution'', ''and that is'' after ''in a State court'', and ''or directed to'' after ''against'' in introductory provisions.

Subsec. (a)(1). Pub. L. 112–51, § 2(b)(1), substituted ''capacity, for or relating to'' for ''capacity for'' and struck out ''sued'' after ''thereof,''.

Subsec. (a)(3), (4). Pub. L. 112–51, § 2(b)(2), inserted ''or relating to'' after ''for''.

Subsec. (c). Pub. L. 112–51, § 2(a)(2), added subsec. (c).

1996—Pub. L. 104–317, § 206(a)(1), inserted ''or agencies'' after ''officers'' in section catchline.

Subsec. (a). Pub. L. 104–317, § 206(a)(2), struck out ''persons'' after ''following'' in introductory provisions and substituted ''The United States or any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof, sued in an official or individual capacity for any act under color of such office'' for ''Any officer of the United States or any agency thereof, or person acting under him, for any act under color of such office'' in par. (1).

§ 1442a. Members of armed forces sued or prosecuted

A civil or criminal prosecution in a court of a State of the United States against a member of the armed forces of the United States on account of an act done under color of his office or status, or in respect to which he claims any right, title, or authority under a law of the United States respecting the armed forces thereof, or under the law of war, may at any time before the trial or final hearing thereof be removed for trial into the district court of the United States for the district where it is pending in the manner prescribed by law, and it shall thereupon be entered on the docket of the district court, which shall proceed as if the cause had been originally commenced therein and shall have full power to hear and determine the cause.

(Added Aug. 10, 1956, ch. 1041, § 19(a), 70A Stat. 626.)

Editorial Notes

DERIVATION

Section was from the Uniform Code of Military Justice, act May 5, 1950, ch. 169, § 9, 64 Stat. 146, which was based on Article 117, Articles of War, act June 4, 1920, ch. 227, subch. II, § 1, 41 Stat. 811, as amended June 24, 1948, ch. 625, title II, § 242, 62 Stat. 642.

§ 1443. Civil rights cases

Any of the following civil actions or criminal prosecutions, commenced in a State court may be removed by the defendant to the district court of the United States for the district and division embracing the place wherein it is pending:

(1) Against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof;

(2) For any act under color of authority derived from any law providing for equal rights, or for refusing to do any act on the ground that it would be inconsistent with such law.

(June 25, 1948, ch. 646, 62 Stat. 938.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 74 (Mar. 3, 1911, ch. 231, § 31, 36 Stat. 1096).

Other provisions of section 74 of title 28, U.S.C., 1940 ed., are incorporated in sections 1446 and 1447 of this title.

Words ''or in the part of the State where such suit or prosecution is pending'' after ''courts of such States,'' were omitted as unnecessary.

Changes were made in phraseology.

§ 1444. Foreclosure action against United States

Any action brought under section 2410 of this title against the United States in any State court may be removed by the United States to the district court of the United States for the district and division in which the action is pending.

(June 25, 1948, ch. 646, 62 Stat. 938; May 24, 1949, ch. 139, § 82, 63 Stat. 101.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 28, U.S.C., 1940 ed., § 903 (Mar. 4, 1931, ch. 515, § 3, 46 Stat. 1529).

The procedural provisions of section 903 of title 28, U.S.C., 1940 ed., were omitted as covered by section 1446 of this title.

Changes were made in phraseology.

1949 ACT

This section corrects typographical errors in section 1444 of title 28, U.S.C.

Editorial Notes

AMENDMENTS

1949—Act May 24, 1949, inserted ''court'' between ''State'' and ''may'', and substituted ''division'' for ''divisions''.

§ 1445. Nonremovable actions

(a) A civil action in any State court against a railroad or its receivers or trustees, arising under sections 1–4 and 5–10 of the Act of April 22, 1908 (45 U.S.C. 51–54, 55–60), may not be removed to any district court of the United States.

(b) A civil action in any State court against a carrier or its receivers or trustees to recover damages for delay, loss, or injury of shipments, arising under section 11706 or 14706 of title 49, may not be removed to any district court of the United States unless the matter in controversy exceeds $10,000, exclusive of interest and costs.

(c) A civil action in any State court arising under the workmen's compensation laws of such State may not be removed to any district court of the United States.

(d) A civil action in any State court arising under section 40302 of the Violence Against

Women Act of 1994 may not be removed to any district court of the United States.

(June 25, 1948, ch. 646, 62 Stat. 939; Pub. L. 85–554, § 5, July 25, 1958, 72 Stat. 415; Pub. L. 95–473, § 2(a)(3)(A), Oct. 17, 1978, 92 Stat. 1465; Pub. L. 95–486, § 9(b), Oct. 20, 1978, 92 Stat. 1634; Pub. L. 103–322, title IV, § 40302(e)(5), Sept. 13, 1994, 108 Stat. 1942; Pub. L. 104–88, title III, § 305(b), Dec. 29, 1995, 109 Stat. 944; Pub. L. 104–287, § 3, Oct. 11, 1996, 110 Stat. 3388.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 71 (Mar. 3, 1911, ch. 231, § 28, 36 Stat. 1094; Jan. 20, 1914, ch. 11, 38 Stat. 278; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54).

The words ''or its receivers or trustees'' were inserted in both subsections to make clear that nonremovable actions against a carrier do not become removable under section 1442 of this title when filed against court receivers or trustees.

This was the unquestioned rule prior to the act of Aug. 23, 1916, ch. 399, 39 Stat. 532, amending section 76 of title 28, U.S.C., 1940 ed., and permitting removal of actions against officers of United States courts. The cases are in conflict as to whether under that amendment the case becomes removable when the carrier is in receivership or undergoing reorganization. The revised section resolves the conflict by denying the right of removal to receivers and trustees where it would be nonexistent if the carrier were the party defendant. Thus the subject matter rather than legalistic distinctions as to the identity of the parties is made determinative consideration.

A reference in section 71 of title 28, U.S.C., 1940 ed., to sections 51–59 of title 45, U.S.C., 1940 ed., Railroads, was changed to ''51–60.'' Such sections 51–59 embraced all of chapter 2 of said title 45 when the law on which such section 71 is based was enacted, but a new section (60) was added in 1939.

Other provisions of section 71 of title 28, U.S.C., 1940 ed., appear in section 1441 of this title.

Changes were made in phraseology.

Editorial Notes

REFERENCES IN TEXT

Section 40302 of the Violence Against Women Act of 1994, referred to in subsec. (d), is section 40302 of title IV of Pub. L. 103–322, which is classified to section 12361 of Title 34, Crime Control and Law Enforcement.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–287 substituted ''sections 1–4 and 5–10 of the Act of April 22, 1908 (45 U.S.C. 51–54, 55–60)'' for ''sections 51–60 of Title 45''.

1995—Subsec. (b). Pub. L. 104–88 substituted ''carrier'' for ''common carrier'' and ''11706 or 14706'' for ''11707''.

1994—Subsec. (d). Pub. L. 103–322 added subsec. (d).

1978—Subsec. (b). Pub. L. 95–486 substituted ''$10,000'' for ''$3,000''.

Pub. L. 95–473 substituted ''section 11707 of title 49'' for ''section 20 of Title 49''.

1958—Pub. L. 85–554 substituted ''Nonremovable actions'' for ''Carriers; nonremovable actions'' in section catchline and added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of Title 49, Transportation.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of Title 49, Transportation.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–554 applicable only in the case of actions commenced after July 25, 1958, see section 3 of Pub. L. 85–554, set out as a note under section 1331 of this title.

§ 1446. Procedure for removal of civil actions

(a) GENERALLY.—A defendant or defendants desiring to remove any civil action from a State court shall file in the district court of the United States for the district and division within which such action is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action.

(b) REQUIREMENTS; GENERALLY.—(1) The notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within 30 days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.

(2)(A) When a civil action is removed solely under section 1441(a), all defendants who have been properly joined and served must join in or consent to the removal of the action.

(B) Each defendant shall have 30 days after receipt by or service on that defendant of the initial pleading or summons described in paragraph (1) to file the notice of removal.

(C) If defendants are served at different times, and a later-served defendant files a notice of removal, any earlier-served defendant may consent to the removal even though that earlier-served defendant did not previously initiate or consent to removal.

(3) Except as provided in subsection (c), if the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.

(c) REQUIREMENTS; REMOVAL BASED ON DIVERSITY OF CITIZENSHIP.—(1) A case may not be removed under subsection (b)(3) on the basis of jurisdiction conferred by section 1332 more than 1 year after commencement of the action, unless the district court finds that the plaintiff has acted in bad faith in order to prevent a defendant from removing the action.

(2) If removal of a civil action is sought on the basis of the jurisdiction conferred by section 1332(a), the sum demanded in good faith in the initial pleading shall be deemed to be the amount in controversy, except that—

(A) the notice of removal may assert the amount in controversy if the initial pleading seeks—

(i) nonmonetary relief; or

(ii) a money judgment, but the State practice either does not permit demand for a specific sum or permits recovery of damages in excess of the amount demanded; and

(B) removal of the action is proper on the basis of an amount in controversy asserted under subparagraph (A) if the district court finds, by the preponderance of the evidence, that the amount in controversy exceeds the amount specified in section 1332(a).

(3)(A) If the case stated by the initial pleading is not removable solely because the amount in controversy does not exceed the amount specified in section 1332(a), information relating to the amount in controversy in the record of the State proceeding, or in responses to discovery, shall be treated as an ''other paper'' under subsection (b)(3).

(B) If the notice of removal is filed more than 1 year after commencement of the action and the district court finds that the plaintiff deliberately failed to disclose the actual amount in controversy to prevent removal, that finding shall be deemed bad faith under paragraph (1).

(d) NOTICE TO ADVERSE PARTIES AND STATE COURT.—Promptly after the filing of such notice of removal of a civil action the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the notice with the clerk of such State court, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded.

(e) COUNTERCLAIM IN 337 PROCEEDING.—With respect to any counterclaim removed to a district court pursuant to section 337(c) of the Tariff Act of 1930, the district court shall resolve such counterclaim in the same manner as an original complaint under the Federal Rules of Civil Procedure, except that the payment of a filing fee shall not be required in such cases and the counterclaim shall relate back to the date of the original complaint in the proceeding before the International Trade Commission under section 337 of that Act.

(g)[1] Where the civil action or criminal prosecution that is removable under section 1442(a) is a proceeding in which a judicial order for testimony or documents is sought or issued or sought to be enforced, the 30-day requirement of subsection (b) of this section and paragraph (1) of section 1455(b) is satisfied if the person or entity desiring to remove the proceeding files the notice of removal not later than 30 days after receiving, through service, notice of any such proceeding.

(June 25, 1948, ch. 646, 62 Stat. 939; May 24, 1949, ch. 139, § 83, 63 Stat. 101; Pub. L. 89–215, Sept. 29, 1965, 79 Stat. 887; Pub. L. 95–78, § 3, July 30, 1977, 91 Stat. 321; Pub. L. 100–702, title X, § 1016(b), Nov. 19, 1988, 102 Stat. 4669; Pub. L. 102–198, § 10(a), Dec. 9, 1991, 105 Stat. 1626; Pub. L. 103–465, title III, § 321(b)(2), Dec. 8, 1994, 108 Stat. 4946; Pub. L. 104–317, title VI, § 603, Oct. 19, 1996, 110 Stat. 3857; Pub. L. 112–51, § 2(c), Nov. 9, 2011, 125 Stat. 545; Pub. L. 112–63, title I, §§ 103(b), 104, Dec. 7, 2011, 125 Stat. 760, 762.)

[1] So in original. Section does not contain a subsec. (f).

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 28, U.S.C., 1940 ed., §§ 72, 74, 75, 76 (May 3, 1911, ch. 231, §§ 29, 31, 32, 33, 36 Stat. 1095, 1097; Aug. 23, 1916, ch. 399, 39 Stat. 532; July 30, 1977, Pub. L. 95–78, § 3, 91 Stat. 321.)

Section consolidates portions of sections 74, 75, and 76 with section 72 of title 28, U.S.C., 1940 ed., with important changes of substance and phraseology.

Subsection (a), providing for the filing of the removal petition in the district court, is substituted for the requirement of sections 72 and 74 of title 28, U.S.C., 1940 ed., that the petition be filed in the State court. This conforms to the method prescribed by section 76 of title 28, U.S.C., 1940 ed., and to the recommendation of United States District Judges Calvin W. Chesnut and T. Waties Warring approved by the Committee of the Judicial Conference on the Revision of the Judicial Code.

Subsection (b) makes uniform the time for filing petitions to remove all civil actions within twenty days after commencement of action or service of process whichever is later, instead of ''at any time before the defendant is required by the laws of the State or the rule of the State court in which such suit is brought to answer or plead'' as required by section 72 of title 28, U.S.C., 1940 ed. As thus revised, the section will give adequate time and operate uniformly throughout the Federal jurisdiction. The provisions of sections 74 and 76 of title 28, U.S.C., 1940 ed., for filing at any time ''before trial or final hearing'' in civil rights cases and cases involving revenue officers, court officers and officers of either House of Congress were omitted.

Subsection (c) embodies the provisions of sections 74 and 76 of title 28, U.S.C., 1940 ed., for filing the removal petition before trial and makes them applicable to all criminal prosecutions but not to civil actions. This provision was retained to protect Federal officers enforcing revenue or criminal laws from being rushed to trial in State courts before petition for removal could be filed. Words ''or final hearing'' following the words ''before trial,'' were omitted for purposes of clarity and simplification of procedure.

The provision of said section 76 of title 28, U.S.C., 1940 ed., for certificate of counsel that he has examined the proceedings and carefully inquired into all matters set forth in the petition and believes them to be true, was omitted as unnecessary and inconsistent with Rule 11 of the Federal Rules of Civil Procedure.

Subsection (d) is derived from sections 72 and 74 of title 28, U.S.C., 1940 ed., but the requirement for cost bond is limited to civil actions in conformity with the more enlightened trend of modern procedure to remove all unnecessary impediments to the administration of criminal justice. Provisions of said section 72 as to the conditions of the bond were rewritten because inappropriate when the petition for removal is filed in the Federal court.

Subsection (e) provides for notice to the adverse parties and for the filing in the State court of a copy of the petition for removal in substitution for the requirements of sections 72 and 74 of title 28, U.S.C., 1940 ed., for the filing of the removal petition in the State court. The last sentence of subsection (e) is derived from sections 72, 74 and 76 of title 28, U.S.C., 1940 ed.

Subsection (f) is derived from sections 75 and 76 of title 28, U.S.C., 1940 ed.

Since the procedure in removal cases is now governed by the Federal Rules of Civil Procedure [Rule 81(c)] and Federal Rules of Criminal Procedure [Rule 54(b)], the detailed directions of the various sections with respect to such procedure were omitted as unnecessary.

Thus the provision of section 72 of title 28, U.S.C., 1940 ed., with respect to appearance, special bail and filing the record were omitted as covered by the Federal Rules of Civil Procedure, Rules 64, 81(c).

The provisions of section 74 of title 28, U.S.C., 1940 ed., as to the effect of security and other proceedings and remedies in the State court were omitted as covered by section 1450 of this title.

The requirements of section 74 of title 28, U.S.C., 1940 ed., that the clerk of the State court shall furnish copies of pleadings and proceedings to the petitioner and that the petitioner shall file the same in the district court are covered by section 1447 of this title.

The provisions of section 74 of title 28, U.S.C., 1940 ed., requiring the adverse parties to plead anew in the district court were omitted as unnecessary in view of Federal Rules of Civil Procedure, Rule 81(c). The last sentence of such section was omitted as covered by section 1447(d) of this title.

1949 ACT

Subsection (b) of section 1446 of title 28, U.S.C., as revised, has been found to create difficulty in those States, such as New York, where suit is commenced by the service of a summons and the plaintiff's initial pleading is not required to be served or filed until later.

The first paragraph of the amendment to subsection (b) corrects this situation by providing that the petition for removal need not be filed until 20 days after the defendant has received a copy of the plaintiff's initial pleading.

This provision, however, without more, would create further difficulty in those States, such as Kentucky, where suit is commenced by the filing of the plaintiff's initial pleading and the issuance and service of a summons without any requirement that a copy of the pleading be served upon or otherwise furnished to the defendant. Accordingly the first paragraph of the amendment provides that in such cases the petition for removal shall be filed within 20 days after the service of the summons.

The first paragraph of the amendment conforms to the amendment of rule 81(c) of the Federal Rules of Civil Procedure, relating to removed actions, adopted by the Supreme Court on December 29, 1948, and reported by the Court to the present session of Congress.

The second paragraph of the amendment to subsection (b) is intended to make clear that the right of removal may be exercised at a later stage of the case if the initial pleading does not state a removable case but its removability is subsequently disclosed. This is declaratory of the existing rule laid down by the decisions. (See for example, *Powers v. Chesapeake etc., Ry. Co.*, 169 U.S. 92.)

In addition, this amendment clarifies the intent of section 1446(e) of title 28, U.S.C., to indicate that notice need not be given simultaneously with the filing, but may be given promptly thereafter.

Editorial Notes

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsecs. (a) and (e), are set out in the Appendix to this title.

Section 337 of the Tariff Act of 1930, referred to in subsec. (e), is classified to section 1337 of Title 19, Customs Duties.

AMENDMENTS

2011—Pub. L. 112–63, §103(b)(1), amended section catchline generally, substituting ''Procedure for removal of civil actions'' for ''Procedure for removal''.

Subsec. (a). Pub. L. 112–63, §103(b)(2), inserted heading and struck out ''or criminal prosecution'' after ''civil action'' in text.

Subsec. (b). Pub. L. 112–63, §103(b)(3)(A), (B), inserted heading, designated first par. as par. (1), added pars. (2) and (3), and struck out second par. which read as follows: ''If the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable, except that a case may not be removed on the basis of jurisdiction conferred by section 1332 of this title more than 1 year after commencement of the action.''

Subsec. (b)(1). Pub. L. 112–63, §103(b)(4)(B), substituted ''30 days'' for ''thirty days'' in two places.

Subsec. (c). Pub. L. 112–63, §103(b)(3)(C), added subsec. (c) and struck out former subsec. (c) which related to notice of removal of a criminal prosecution.

Subsec. (d). Pub. L. 112–63, §103(b)(4)(A), inserted heading.

Subsecs. (e), (f). Pub. L. 112–63, §103(b)(4)(C), (D), redesignated subsec. (f) as (e), inserted heading, and struck out former subsec. (e) which read as follows: ''If the defendant or defendants are in actual custody on process issued by the State court, the district court shall issue its writ of habeas corpus, and the marshal shall thereupon take such defendant or defendants into his custody and deliver a copy of the writ to the clerk of such State court.''

Subsec. (g). Pub. L. 112–63, §104, substituted ''subsection (b) of this section and paragraph (1) of section 1455(b)'' for ''subsections (b) and (c)''.

Pub. L. 112–51 added subsec. (g).

1996—Subsec. (c)(1). Pub. L. 104–317 substituted ''defendant or defendants'' for ''petitioner''.

1994—Subsec. (f). Pub. L. 103–465 added subsec. (f).

1991—Subsec. (c)(1). Pub. L. 102–198, §10(a)(1), (4), substituted ''notice of'' for ''petition for'' and ''the notice'' for ''the petition''.

Subsec. (c)(2). Pub. L. 102–198, §10(a)(1), (4), substituted ''notice of'' for ''petition for'' and substituted ''notice'' for ''petition'' in three places.

Subsec. (c)(3). Pub. L. 102–198, §10(a)(1), (2), substituted ''notice of'' for ''petition for'' and ''prosecution is first remanded'' for ''petition is first denied''.

Subsec. (c)(4), (5). Pub. L. 102–198, §10(a)(3), added pars. (4) and (5) and struck out former pars. (4) and (5) which read as follows:

''(4) The United States district court to which such petition is directed shall examine the petition promptly. If it clearly appears on the face of the petition and any exhibits annexed thereto that the petition for removal should not be granted, the court shall make an order for its summary dismissal.

''(5) If the United States district court does not order the summary dismissal of such petition, it shall order an evidentiary hearing to be held promptly and after such hearing shall make such disposition of the petition as justice shall require. If the United States district court determines that such petition shall be granted, it shall so notify the State court in which prosecution is pending, which shall proceed no further.''

Subsec. (d). Pub. L. 102–198, §10(a)(1), (4), (5), substituted ''notice of removal'' for ''petition for the removal'', struck out ''and bond'' after ''civil action'', and substituted ''notice with'' for ''petition with''.

1988—Subsec. (a). Pub. L. 100–702, §1016(b)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''A defendant or defendants desiring to remove any civil action or criminal prosecution from a State court shall file in the district court of the United States for the district and division within which such action is pending a verified petition containing a short and plain statement of the facts which entitle him or them to removal together with a copy of all process, pleadings and orders served upon him or them in such action.''

Subsec. (b). Pub. L. 100–702, §1016(b)(2), substituted ''notice of removal'' for ''petition for removal'' in two places and inserted before period at end of second par. '', except that a case may not be removed on the basis of jurisdiction conferred by section 1332 of this title more than 1 year after commencement of the action''.

Subsecs. (d) to (f). Pub. L. 100–702, §1016(b)(3), redesignated subsecs. (e) and (f) as (d) and (e), respectively, and struck out former subsec. (d) which read as follows: ''Each petition for removal of a civil action or proceeding, except a petition in behalf of the United States, shall be accompanied by a bond with good and sufficient surety conditioned that the defendant or de-

fendants will pay all costs and disbursements incurred by reason of the removal proceedings should it be determined that the case was not removable or was improperly removed.''

1977—Subsec. (c). Pub. L. 95–78, § 3(a), designated existing provisions as par. (1), set a period of 30 days as the maximum allowable time prior to commencement of trial and following arraignment during which time a petition for removal can be filed, provided for the grant of additional time for good cause shown, and added pars. (2) to (5).

Subsec. (e). Pub. L. 95–78, § 3(b), inserted ''for the removal of a civil action'' after ''filing of such petition''.

1965—Subsec. (b). Pub. L. 89–215 substituted ''thirty days'' for ''twenty days'' wherever appearing.

1949—Subsec. (b). Act May 24, 1949, § 83(a), provided that the petition for removal need not be filed until 20 days after the defendant has received a copy of the plaintiff's initial pleading, and provided that the petition for removal shall be filed within 20 days after the service of summons.

Subsec. (e). Act May 24, 1949, § 83(b), indicated that notice need not be given simultaneously with the filing, but may be made promptly thereafter.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112–63 effective upon the expiration of the 30-day period beginning on Dec. 7, 2011, and applicable to any action or prosecution commenced on or after such effective date, with provisions for treatment of cases removed to Federal court, see section 105 of Pub. L. 112–63, set out as a note under section 1332 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 applicable with respect to complaints filed under section 1337 of Title 19, Customs Duties, on or after the date on which the World Trade Organization Agreement enters into force with respect to the United States [Jan. 1, 1995], or in cases under section 1337 of Title 19 in which no complaint is filed, with respect to investigations initiated under such section on or after such date, see section 322 of Pub. L. 103–465, set out as a note under section 1337 of Title 19.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–78 effective Oct. 1, 1977, see section 4 of Pub. L. 95–78, set out as an Effective Date of Pub. L. 95–78 note under section 2074 of this title.

§ 1447. Procedure after removal generally

(a) In any case removed from a State court, the district court may issue all necessary orders and process to bring before it all proper parties whether served by process issued by the State court or otherwise.

(b) It may require the removing party to file with its clerk copies of all records and proceedings in such State court or may cause the same to be brought before it by writ of certiorari issued to such State court.

(c) A motion to remand the case on the basis of any defect other than lack of subject matter jurisdiction must be made within 30 days after the filing of the notice of removal under section 1446(a). If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded. An order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal. A certified copy of the order of remand shall be mailed by the clerk to the clerk of the State court. The State court may thereupon proceed with such case.

(d) An order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise, except that an order remanding a case to the State court from which it was removed pursuant to section 1442 or 1443 of this title shall be reviewable by appeal or otherwise.

(e) If after removal the plaintiff seeks to join additional defendants whose joinder would destroy subject matter jurisdiction, the court may deny joinder, or permit joinder and remand the action to the State court.

(June 25, 1948, ch. 646, 62 Stat. 939; May 24, 1949, ch. 139, § 84, 63 Stat. 102; Pub. L. 88–352, title IX, § 901, July 2, 1964, 78 Stat. 266; Pub. L. 100–702, title X, § 1016(c), Nov. 19, 1988, 102 Stat. 4670; Pub. L. 102–198, § 10(b), Dec. 9, 1991, 105 Stat. 1626; Pub. L. 104–219, § 1, Oct. 1, 1996, 110 Stat. 3022; Pub. L. 112–51, § 2(d), Nov. 9, 2011, 125 Stat. 546.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 28, U.S.C., 1940 ed., §§ 71, 72, 74, 76, 80, 81 and 83 (Mar. 3, 1911, ch. 231, §§ 28, 29, 31, 33, 37 and 38, 36 Stat. 1094–1098; Jan. 20, 1914, ch. 11, 39 Stat. 278; Aug. 23, 1916, ch. 399, 39 Stat. 532; Apr. 16, 1920, ch. 146, 41 Stat. 554; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54).

Section consolidates procedural provisions of sections 71, 72, 74, 76, 80, 81 and 83 of title 28, U.S.C., 1940 ed., with important changes in substance and phraseology.

Subsection (a) is derived from sections 72, 76, 81 and 83 of title 28, U.S.C., 1940 ed. The remaining provisions of said section 83 are the basis of section 1448 of this title.

Subsection (b) is derived from sections 72, 74, 76 and 83 of title 28, U.S.C., 1940 ed., which have been rewritten to provide the utmost simplicity and flexibility of procedure in bringing the State court record to the district court.

[*Editorial Note.*—Subsecs. (c), (d) and (e) as originally revised and incorporated in this section read as follows:

''(c) It may order the pleadings recast and the parties realigned according to their real interest.

''(d) If any party fails to comply with its lawful orders, the district court may enter such further orders and judgments as justice requires.

''(e) 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. 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.'']

Subsections (c) and (d) are substituted for unnecessary and inconsistent procedural provisions.

Subsection (e) [now subsec. (c)] is derived from sections 71 and 80 of title 28, U.S.C., 1940 ed. Such subsection is rewritten to eliminate the cumbersome procedure of remand. Under this chapter as revised, the petition for removal under section 1446 of this chapter will be filed in the Federal court in the first instance and the right of removal determined in that court before the petition is granted.

The provisions in section 80 of title 28, U.S.C., 1940 ed., relating to actions commenced in district courts, as distinguished from actions removed thereto, are incorporated in section 1359 of this title. Other provisions of said section 80 appear in section 1919 of this title.

1949 ACT

This section strikes out subsections (c) and (d) of section 1447 of title 28, U.S.C., as covered by the Federal Rules of Civil Procedure, and adds a new subsection to such section 1447 to remove any doubt that the former

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 subsecs. (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

Pub. L. 91–358, set out as an Effective Date of 1970 Amendment note under section 1257 of this title.

§ 1452. Removal of claims related to bankruptcy cases

(a) A party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit's police or regulatory power, to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.

(b) The court to which such claim or cause of action is removed may remand such claim or cause of action on any equitable ground. An order entered under this subsection remanding a claim or cause of action, or a decision to not remand, is not reviewable by appeal or otherwise by the court of appeals under section 158(d), 1291, or 1292 of this title or by the Supreme Court of the United States under section 1254 of this title.

(Added Pub. L. 98–353, title I, § 103(a), July 10, 1984, 98 Stat. 335; amended Pub. L. 101–650, title III, § 309(c), Dec. 1, 1990, 104 Stat. 5113.)

Editorial Notes

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–650 inserted before period at end "by the court of appeals under section 158(d), 1291, or 1292 of this title or by the Supreme Court of the United States under section 1254 of this title".

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective July 10, 1984, see section 122(a) of Pub. L. 98–353, set out as a note under section 151 of this title.

§ 1453. Removal of class actions

(a) DEFINITIONS.—In this section, the terms "class", "class action", "class certification order", and "class member" shall have the meanings given such terms under section 1332(d)(1).

(b) IN GENERAL.—A class action may be removed to a district court of the United States in accordance with section 1446 (except that the 1-year limitation under section 1446(c)(1) shall not apply), without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed by any defendant without the consent of all defendants.

(c) REVIEW OF REMAND ORDERS.—

(1) IN GENERAL.—Section 1447 shall apply to any removal of a case under this section, except that notwithstanding section 1447(d), a court of appeals may accept an appeal from an order of a district court granting or denying a motion to remand a class action to the State court from which it was removed if application is made to the court of appeals not more than 10 days after entry of the order.

(2) TIME PERIOD FOR JUDGMENT.—If the court of appeals accepts an appeal under paragraph (1), the court shall complete all action on such appeal, including rendering judgment, not later than 60 days after the date on which such appeal was filed, unless an extension is granted under paragraph (3).

(3) EXTENSION OF TIME PERIOD.—The court of appeals may grant an extension of the 60-day period described in paragraph (2) if—

(A) all parties to the proceeding agree to such extension, for any period of time; or

(B) such extension is for good cause shown and in the interests of justice, for a period not to exceed 10 days.

(4) DENIAL OF APPEAL.—If a final judgment on the appeal under paragraph (1) is not issued before the end of the period described in paragraph (2), including any extension under paragraph (3), the appeal shall be denied.

(d) EXCEPTION.—This section shall not apply to any class action that solely involves—

(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 (15 U.S.C. 78p(f)(3)[1]) and section 28(f)(5)(E) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(f)(5)(E));

(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 (15 U.S.C. 77b(a)(1)) and the regulations issued thereunder).

(Added Pub. L. 109–2, § 5(a), Feb. 18, 2005, 119 Stat. 12; amended Pub. L. 111–16, § 6(2), May 7, 2009, 123 Stat. 1608; Pub. L. 112–63, title I, § 103(d)(2), Dec. 7, 2011, 125 Stat. 762.)

Editorial Notes

AMENDMENTS

2011—Subsec. (b). Pub. L. 112–63 substituted "1446(c)(1)" for "1446(b)".

2009—Subsec. (c)(1). Pub. L. 111–16 substituted "not more than 10 days" for "not less than 7 days".

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112–63 effective upon the expiration of the 30-day period beginning on Dec. 7, 2011, and applicable to any action or prosecution commenced on or after such effective date, with provisions for treatment of cases removed to Federal court, see section 105 of Pub. L. 112–63, set out as a note under section 1332 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–16 effective Dec. 1, 2009, see section 7 of Pub. L. 111–16, set out as a note under section 109 of Title 11, Bankruptcy.

EFFECTIVE DATE

Section applicable to any civil action commenced on or after Feb. 18, 2005, see section 9 of Pub. L. 109–2, set out as an Effective Date of 2005 Amendment note under section 1332 of this title.

[1] So in original. Probably should be "77p(f)(3)".

§ 1454. Patent, plant variety protection, and copyright cases

(a) IN GENERAL.—A civil action in which any party asserts a claim for relief arising under any Act of Congress relating to patents, plant variety protection, or copyrights may be removed to the district court of the United States for the district and division embracing the place where the action is pending.

(b) SPECIAL RULES.—The removal of an action under this section shall be made in accordance with section 1446, except that if the removal is based solely on this section—

(1) the action may be removed by any party; and

(2) the time limitations contained in section 1446(b) may be extended at any time for cause shown.

(c) CLARIFICATION OF JURISDICTION IN CERTAIN CASES.—The court to which a civil action is removed under this section is not precluded from hearing and determining any claim in the civil action because the State court from which the civil action is removed did not have jurisdiction over that claim.

(d) REMAND.—If a civil action is removed solely under this section, the district court—

(1) shall remand all claims that are neither a basis for removal under subsection (a) nor within the original or supplemental jurisdiction of the district court under any Act of Congress; and

(2) may, under the circumstances specified in section 1367(c), remand any claims within the supplemental jurisdiction of the district court under section 1367.

(Added Pub. L. 112–29, § 19(c)(1), Sept. 16, 2011, 125 Stat. 332.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section applicable to any civil action commenced on or after Sept. 16, 2011, see section 19(e) of Pub. L. 112–29, set out as an Effective Date of 2011 Amendment note under section 1295 of this title.

§ 1455. Procedure for removal of criminal prosecutions

(a) NOTICE OF REMOVAL.—A defendant or defendants desiring to remove any criminal prosecution from a State court shall file in the district court of the United States for the district and division within which such prosecution is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action.

(b) REQUIREMENTS.—(1) A notice of removal of a criminal prosecution shall be filed not later than 30 days after the arraignment in the State court, or at any time before trial, whichever is earlier, except that for good cause shown the United States district court may enter an order granting the defendant or defendants leave to file the notice at a later time.

(2) A notice of removal of a criminal prosecution shall include all grounds for such removal. A failure to state grounds that exist at the time of the filing of the notice shall constitute a waiver of such grounds, and a second notice may be filed only on grounds not existing at the time of the original notice. For good cause shown, the United States district court may grant relief from the limitations of this paragraph.

(3) The filing of a notice of removal of a criminal prosecution shall not prevent the State court in which such prosecution is pending from proceeding further, except that a judgment of conviction shall not be entered unless the prosecution is first remanded.

(4) The United States district court in which such notice is filed shall examine the notice promptly. If it clearly appears on the face of the notice and any exhibits annexed thereto that removal should not be permitted, the court shall make an order for summary remand.

(5) If the United States district court does not order the summary remand of such prosecution, it shall order an evidentiary hearing to be held promptly and, after such hearing, shall make such disposition of the prosecution as justice shall require. If the United States district court determines that removal shall be permitted, it shall so notify the State court in which prosecution is pending, which shall proceed no further.

(c) WRIT OF HABEAS CORPUS.—If the defendant or defendants are in actual custody on process issued by the State court, the district court shall issue its writ of habeas corpus, and the marshal shall thereupon take such defendant or defendants into the marshal's custody and deliver a copy of the writ to the clerk of such State court.

(Added Pub. L. 112–63, title I, § 103(c), Dec. 7, 2011, 125 Stat. 761.)

Editorial Notes

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (a), are set out in the Appendix to this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective upon the expiration of the 30-day period beginning on Dec. 7, 2011, and applicable to any action or prosecution commenced on or after such effective date, with provisions for treatment of cases removed to Federal court, see section 105 of Pub. L. 112–63, set out as an Effective Date of 2011 Amendment note under section 1332 of this title.

[CHAPTER 90—OMITTED]

Editorial Notes

CODIFICATION

Chapter 90, consisting of sections 1471 to 1482, which was added by Pub. L. 95–598, title II, § 241(a), Nov. 6, 1978, 92 Stat. 2668, and which related to district courts and bankruptcy courts, did not become effective pursuant to section 402(b) of Pub. L. 95–598, as amended, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

Statutory Notes and Related Subsidiaries

TRANSITION TO NEW COURT SYSTEM

Pub. L. 95–598, title IV, § 409, Nov. 6, 1978, 92 Stat. 2687, as amended by Pub. L. 98–249, § 1(d), Mar. 31, 1984, 98