

SENATE REVISION AMENDMENT

By Senate amendment, all provisions relating to the Tax Court were eliminated. Therefore, section 1141(c)(4) of Title 26, U.S.C., Internal Revenue Code, was not one of the sources of this section as finally enacted. However, no change in the text of this section was necessary. See 80th Congress Senate Report No. 1559.

§ 1913. Courts of appeals

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

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

HISTORICAL AND REVISION NOTES

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

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

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

Changes were made in phraseology.

Statutory Notes and Related Subsidiaries

APPEALS FILED IN COURTS OF APPEALS

Pub. L. 109–171, title X, §10001(b), Feb. 8, 2006, 120 Stat. 183, provided that: “The \$250 fee for docketing a case on appeal or review, or docketing any other proceeding, in a court of appeals, as prescribed by the Judicial Conference, effective as of January 1, 2005, under section 1913 of title 28, United States Code, shall be increased to \$450.”

COURT FEES FOR ELECTRONIC ACCESS TO INFORMATION

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

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

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

Similar provisions were contained in the following prior appropriation act:

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

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

(a) The clerk of each district court shall require the parties instituting any civil action,

suit or proceeding in such court, whether by original process, removal or otherwise, to pay a filing fee of \$350, except that on application for a writ of habeas corpus the filing fee shall be \$5.

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

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

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

HISTORICAL AND REVISION NOTES

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

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

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

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

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

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

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

Editorial Notes

CODIFICATION

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

AMENDMENTS

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

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

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

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

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

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

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

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

EFFECTIVE DATE OF 2004 AMENDMENT

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

EFFECTIVE DATE OF 1996 AMENDMENT

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

EFFECTIVE DATE OF 1986 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(c) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

COURT FEES FOR ELECTRONIC ACCESS TO INFORMATION

Judicial Conference to prescribe reasonable fees for collection by courts under this section for access to information available through automatic data processing equipment and fees to be deposited in Judiciary Automation Fund, see section 303 of Pub. L. 102-140, set out as a note under section 1913 of this title.

§ 1915. Proceedings in forma pauperis

(a)(1) Subject to subsection (b), any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor. Such affidavit shall state the nature of the action, defense or appeal and affiant's belief that the person is entitled to redress.

(2) A prisoner seeking to bring a civil action or appeal a judgment in a civil action or proceeding without prepayment of fees or security therefor, in addition to filing the affidavit filed under paragraph (1), shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined.

(3) An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.

(b)(1) Notwithstanding subsection (a), if a prisoner brings a civil action or files an appeal in

forma pauperis, the prisoner shall be required to pay the full amount of a filing fee. The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of—

(A) the average monthly deposits to the prisoner's account; or

(B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

(2) After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

(3) In no event shall the filing fee collected exceed the amount of fees permitted by statute for the commencement of a civil action or an appeal of a civil action or criminal judgment.

(4) In no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee.

(c) Upon the filing of an affidavit in accordance with subsections (a) and (b) and the prepayment of any partial filing fee as may be required under subsection (b), the court may direct payment by the United States of the expenses of (1) printing the record on appeal in any civil or criminal case, if such printing is required by the appellate court; (2) preparing a transcript of proceedings before a United States magistrate judge in any civil or criminal case, if such transcript is required by the district court, in the case of proceedings conducted under section 636(b) of this title or under section 3401(b) of title 18, United States Code; and (3) printing the record on appeal if such printing is required by the appellate court, in the case of proceedings conducted pursuant to section 636(c) of this title. Such expenses shall be paid when authorized by the Director of the Administrative Office of the United States Courts.

(d) The officers of the court shall issue and serve all process, and perform all duties in such cases. Witnesses shall attend as in other cases, and the same remedies shall be available as are provided for by law in other cases.

(e)(1) The court may request an attorney to represent any person unable to afford counsel.

(2) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that—

(A) the allegation of poverty is untrue; or

(B) the action or appeal—

(i) is frivolous or malicious;

(ii) fails to state a claim on which relief may be granted; or

(iii) seeks monetary relief against a defendant who is immune from such relief.

(f)(1) Judgment may be rendered for costs at the conclusion of the suit or action as in other