

## CHAPTER 15—CONFERENCES AND COUNCILS OF JUDGES

Sec.

335. Judicial Conference of the Court of International Trade.

### AMENDMENTS

1986—Pub. L. 99-466, § 2(b), Oct. 14, 1986, 100 Stat. 1190, added item 335.

### § 331. Judicial Conference of the United States

The Chief Justice of the United States shall summon annually the chief judge of each judicial circuit, the chief judge of the Court of International Trade, and a district judge from each judicial circuit to a conference at such time and place in the United States as he may designate. He shall preside at such conference which shall be known as the Judicial Conference of the United States. Special sessions of the Conference may be called by the Chief Justice at such times and places as he may designate.

*[See main edition for text of second par.]*

If the chief judge of any circuit, the chief judge of the Court of International Trade, or the district judge chosen by the judges of the circuit is unable to attend, the Chief Justice may summon any other circuit or district judge from such circuit or any other judge of the Court of International Trade, as the case may be. Every judge summoned shall attend and, unless excused by the Chief Justice, shall remain throughout the sessions of the conference and advise as to the needs of his circuit or court and as to any matters in respect of which the administration of justice in the courts of the United States may be improved.

*[See main edition for text of fourth and fifth pars.]*

The Attorney General shall, upon request of the Chief Justice, report to such Conference on matters relating to the business of the several courts of the United States, with particular reference to cases to which the United States is a party.

*[See main edition for text of seventh par.]*

(June 25, 1948, ch. 646, 62 Stat. 902; July 9, 1956, ch. 517, § 1(d), 70 Stat. 497; Aug. 28, 1957, Pub. L. 85-202, 71 Stat. 476; July 11, 1958, Pub. L. 85-513, 72 Stat. 356; Sept. 19, 1961, Pub. L. 87-253, §§ 1, 2, 75 Stat. 521; Nov. 6, 1978, Pub. L. 95-598, title II, § 208, 92 Stat. 2660; Oct. 15, 1980, Pub. L. 96-458, § 4, 94 Stat. 2040; Apr. 2, 1982, Pub. L. 97-164, title I, § 111, 96 Stat. 29; Oct. 14, 1986, Pub. L. 99-466, § 1, 100 Stat. 1190.)

### AMENDMENTS

1986—Pub. L. 99-466, § 1(a), inserted “, the chief judge of the Court of International Trade,” and substituted “Conference may” for “conference may” in first par.

Pub. L. 99-466, § 1(b), inserted “, the chief judge of the Court of International Trade,” and “or any other judge of the Court of International Trade, as the case may be” in first sentence of third par.

Pub. L. 99-466, § 1(c), substituted “Conference” for “conference” in sixth par.

1978—Pub. L. 95-598 directed the amendment of section by inserting references to bankruptcy judges, which amendment 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.

### EFFECTIVE DATE OF 1986 AMENDMENT

Section 4 of Pub. L. 99-466 provided that: “This Act and the amendments made by this Act [enacting section 335 of this title, amending sections 331 and 569 of this title, renumbering section 873 of this title as 872, and repealing former section 872 of this title] shall take effect 60 days after the date of the enactment of this Act [Oct. 14, 1986].”

### § 332. Judicial councils of circuits

### AMENDMENTS

1978—Subsec. (d). Pub. L. 95-598 directed the amendment of subsec. (d) by inserting “and bankruptcy judges” after “The district judges”, which amendment 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.

### § 333. Judicial conferences of circuits

### TERMINATION OF UNITED STATES DISTRICT COURT FOR THE DISTRICT OF THE CANAL ZONE

For termination of the United States District Court for the District of the Canal Zone at end of the “transition period”, being the 30-month period beginning Oct. 1, 1979, and ending midnight Mar. 31, 1982, see Paragraph 5 of Article XI of the Panama Canal Treaty of 1977 and sections 3831 and 3841 to 3843 of Title 22, Foreign Relations and Intercourse.

### § 335. Judicial Conference of the Court of International Trade

(a) The chief judge of the Court of International Trade is authorized to summon annually the judges of such court to a judicial conference, at a time and place that such chief judge designates, for the purpose of considering the business of such court and improvements in the administration of justice in such court.

(b) The Court of International Trade shall provide by its rules for representation and active participation at such conference by members of the bar.

(Added Pub. L. 99-466, § 2(a), Oct. 14, 1986, 100 Stat. 1190.)

### EFFECTIVE DATE

Section effective 60 days after Oct. 14, 1986, see section 4 of Pub. L. 99-466, set out as an Effective Date of 1986 Amendment note under section 331 of this title.

## CHAPTER 17—RESIGNATION AND RETIREMENT OF JUSTICES AND JUDGES

Sec.

371. Retirement on salary; retirement in senior status.  
 373. Judges in Territories and Possessions.<sup>1</sup>  
 375. Recall of certain judges and magistrates.

<sup>1</sup>Section catchline amended by Pub. L. 99-396 without corresponding amendment of analysis.

## AMENDMENTS

1986—Pub. L. 99-651, title II, § 201(b)(2), Nov. 14, 1986, 100 Stat. 3648, amended item 375 generally.

1984—Pub. L. 98-353, title II, § 204(b), July 10, 1984, 98 Stat. 350, substituted “Retirement on salary; retirement in senior status” for “Resignation or retirement for age” in item 371.

**§ 371. Retirement on salary; retirement in senior status**

(a) Any justice or judge of the United States appointed to hold office during good behavior may retire from the office after attaining the age and meeting the service requirements, whether continuous or otherwise, of subsection (c) and shall, during the remainder of his lifetime, receive an annuity equal to the salary he was receiving at the time he retired.

(b) Any justice or judge of the United States appointed to hold office during good behavior may retain the office but retire from regular active service after attaining the age and meeting the service requirements, whether continuous or otherwise, of subsection (c) of this section and shall, during the remainder of his lifetime, continue to receive the salary of the office.

(c) The age and service requirements for retirement under this section are as follows:

Attained age:	Years of service:
65.....	15
66.....	14
67.....	13
68.....	12
69.....	11
70.....	10

(d) The President shall appoint, by and with the advice and consent of the Senate, a successor to a justice or judge who retires under this section.

(As amended July 10, 1984, Pub. L. 98-353, title II, § 204(a), 98 Stat. 350.)

## AMENDMENTS

1984—Pub. L. 98-353 substituted “Retirement on salary; retirement in senior status” for “Resignation or retirement for age” in section catchline.

Subsec. (a). Pub. L. 98-353 amended subsec. (a) generally, substituting “may retire from the office after attaining the age and meeting the service requirements, whether continuous or otherwise, of subsection (c) and shall, during the remainder of his lifetime, receive an annuity equal to the salary he was receiving at the time he retired” for “who resigns after attaining the age of seventy years and after serving at least ten years continuously or otherwise shall, during the remainder of his lifetime, continue to receive the salary which he was receiving when he resigned”.

Subsec. (b). Pub. L. 98-353 amended subsec. (b) generally, substituting “may retain the office but retire from regular active service after attaining the age and meeting the service requirements, whether continuous or otherwise, of subsection (c) of this section and shall, during the remainder of his lifetime, continue to receive the salary of the office” for “may retain his office but retire from regular active service after attaining the age of seventy years and after serving at least ten years continuously or otherwise, or after attaining the age of sixty-five years and after serving at least fifteen years continuously or otherwise. He shall, during the remainder of his lifetime, continue to re-

ceive the salary of the office. The President shall appoint, by and with the advice and consent of the Senate, a successor to a justice or judge who retires”.

Subsecs. (c), (d). Pub. L. 98-353 added subsecs. (c) and (d).

## EFFECTIVE DATE OF 1984 AMENDMENT

Section 204(c) of Pub. L. 98-353 provided that: “The amendments made by this section [amending this section] shall apply with respect to any justice or judge of the United States appointed to hold office during good behavior who retires on or after the date of enactment of this Act [July 10, 1984].”

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 294, 372, 375, 376 of this title; title 5 sections 8701, 8714a, 8714b; title 26 section 3121; title 42 section 409.

**§ 372. Retirement for disability; substitute judge on failure to retire; judicial discipline**

[See main edition for text of (a) and (b)]

(c) [See main edition for text of (1) to (5)]

(6) Upon receipt of a report filed under paragraph (5) of this subsection, the judicial council—

[See main edition for text of (A)]

(B) shall take such action as is appropriate to assure the effective and expeditious administration of the business of the courts within the circuit, including, but not limited to, any of the following actions:

[See main edition for text of (i) to (vi)]

(vii) ordering such other action as it considers appropriate under the circumstances, except that (I) in no circumstances may the council order removal from office of any judge appointed to hold office during good behavior, and (II) any removal of a magistrate shall be in accordance with section 631 of this title and any removal of a bankruptcy judge shall be in accordance with section 152 of this title; and

[See main edition for text of (C), (7) to (17)]

(As amended July 10, 1984, Pub. L. 98-353, title I, § 107, 98 Stat. 342.)

## AMENDMENTS

1984—Subsec. (c)(6)(B)(vii). Pub. L. 98-353 substituted “section 152” for “section 153”.

## EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-353 effective July 10, 1984, see section 122(a) of Pub. L. 98-353, set out as an Effective Date note under section 151 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 294, 331, 375, 376, 604 of this title; title 5 section 8701.

**§ 373. Judges in territories and possessions**

(a) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who retires from office after attaining the age and meeting the service requirements whether continuous or otherwise, of subsection

(b) shall, during the remainder of his lifetime, receive an annuity equal to the salary he is receiving at the time he retires.

(b) The age and service requirements for retirement under subsection (a) of this section are as follows:

Attained age:	Years of service:
65.....	15
66.....	14
67.....	13
68.....	12
69.....	11
70.....	10

(c)(1) Any judge or former judge who is receiving an annuity pursuant to this section may elect to become a senior judge of the court upon which he served before retiring.

(2) The chief judge of a judicial circuit may recall any such senior judge, with the judge's consent, to perform, for the court from which he retired, such judicial duties for such periods of time as the chief judge may specify.

(3) Any act or failure to act by a senior judge performing judicial duties pursuant to recall under paragraph (2) of this subsection shall have the same force and effect as if it were an act or failure to act of a judge on active duty; but such senior judge shall not be counted as a judge of the court on which he is serving as a recalled annuitant for purposes of the number of judgeships authorized for that court.

(4) Any senior judge performing judicial duties pursuant to recall under paragraph (2) of this subsection shall be paid, while performing such duties, the same compensation (in lieu of the annuity payable under subsection (a) of this section) and the same allowances for travel and other expenses as a judge on active duty with the court being served.

(5) Any senior judge performing judicial duties pursuant to recall under paragraph (2) of this subsection shall at all times be governed by the code of judicial conduct for United States judges approved by the Judicial Conference of the United States.

(d) Any judge who elects to become a senior judge under subsection (c) of this section and who thereafter—

(1) accepts civil office or employment under the Government of the United States (other than the performance of judicial duties pursuant to recall under subsection (c) of this section);

(2) engages in the practice of law; or

(3) materially violates the code of judicial conduct for United States judges,

shall cease to be a senior judge and to be eligible for recall pursuant to subsection (c) of this section.

(e) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who is removed by the President of the United States upon the sole ground of mental or physical disability, or who is not reappointed (as judge of such court), shall be entitled, upon attaining the age of sixty-five years or upon relinquishing office if he is then beyond the age of sixty-five years, (1) if his judicial service, continuous or otherwise, aggregates fifteen

years or more, to receive during the remainder of his life an annuity equal to the salary he received when he left office, or (2) if his judicial service, continuous or otherwise, aggregated less than fifteen years but not less than ten years, to receive during the remainder of his life an annuity equal to that proportion of such salary which the aggregate number of his years of his judicial service bears to fifteen.

(f) Service at any time as a judge of the courts referred to in subsection (a) or of any other court of the United States, as defined by section 451 of this title, shall be included in the computation of aggregate years of judicial service for purposes of this section.

(g) Any retired judge who is entitled to receive an annuity under subsection (a) shall be entitled to a cost of living adjustment in the amount payable to him computed as specified in section 8340(b) of title 5, except that in no case may the annuity payable to such retired judge, as increased under this subsection, exceed 95 per centum of the salary of a United States district judge in regular active service.

(As amended Aug. 27, 1986, Pub. L. 99-396, § 21(a), 100 Stat. 844.)

#### AMENDMENTS

1986—Pub. L. 99-396 amended section generally. Prior to amendment, section read as follows:

"Any judge of the United States District Court for the District of the Canal Zone, the District Court of Guam, or the District Court of the Virgin Islands, who resigns after attaining the age of seventy years and after serving at least ten years, continuously or otherwise, or after attaining the age of sixty-five years and after serving at least fifteen years, continuously or otherwise, shall continue during the remainder of his life to receive the salary he received when he relinquished office.

"Any judge of any such courts who is removed by the President of the United States upon the sole ground of mental or physical disability, or who fails of reappointment, shall be entitled, upon attaining the age of sixty-five years or upon relinquishing office if he is then beyond the age of sixty-five years, (a) if his judicial service aggregated sixteen years or more, to receive during the remainder of his life the salary he received when he relinquished office, or (b) if his judicial service aggregated less than sixteen years but not less than ten years, to receive during the remainder of his life that proportion of such salary which the aggregate number of years of his judicial service bears to sixteen.

"Service at any time in any of the courts referred to in the first paragraph, or in any other court under appointment by the President, shall be included in the computation of aggregate years of judicial service for the purposes of this section.

"Any judge who has retired by resigning under the provisions of this section, or who is otherwise entitled to payments under this section, shall be entitled after the effective date of this Act to a cost-of-living adjustment in the amount payable to him computed as specified in section 8340(b) of title 5, United States Code: *Provided*, however, That in no case shall the salary or amount payable to such judge as increased under this paragraph exceed 95 per centum of the salary of a United States district court judge in regular active service."

#### EFFECTIVE DATE OF 1986 AMENDMENT

Section 21(c) of Pub. L. 99-396 provided that: "The amendments made by this section [amending sections 373 and 376 of this title] shall not affect the amount

payable to a judge who retired in accordance with the provisions of section 373 of title 28, United States Code, in effect on the day before the date of enactment of this Act (Aug. 27, 1986)."

**ELECTION, RECALL STATUS, COMPENSATION, CONDUCT, AND TERMINATION OF SENIOR JUDGES**

Pub. L. 98-454, title X, § 1002, Oct. 5, 1984, 98 Stat. 1745, provided that:

"(a) Any judge or former judge who is receiving, or will upon attaining the age of sixty-five years be entitled to receive, payments pursuant to section 373 of title 28, United States Code, may elect to become a senior judge of the court on which he served while on active duty.

"(b) The chief judge of a judicial circuit may recall any such senior judge of his circuit, with the judge's consent, to perform in the District Court of Guam, the District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands such judicial duties and for such periods of time as the chief judge may specify.

"(c) Any act or failure to act by a senior judge performing judicial duties pursuant to this section shall have the same force and effect as if it were the act or failure to act of a judge on active duty; but such senior judge shall not be counted as a judge of the court on which he is serving for purposes of the number of judgeships authorized for that court.

"(d) Any senior judge shall be paid, while performing duties pursuant to this section, the same compensation (in lieu of payments pursuant to section 373 of title 28, United States Code) and the same allowances for travel and other expenses as a judge in active service.

"(e) Senior judges under subsection (a) of this section shall at all times be governed by the code of judicial conduct for the United States judges, approved by the Judicial Conference of the United States.

"(f) Any person who has elected to be a senior judge under subsection (a) of this section and who thereafter—

"(1) accepts civil office or employment under the Government of the United States (other than the performance of judicial duties pursuant to subsection (b) of this section);

"(2) engages in the practice of law; or

"(3) materially violates the code of judicial conduct for the United States judges, shall cease to be a senior judge and to be eligible for recall pursuant to subsection (b) of this section."

**§ 374. Residence of retired judges; official station**

Retired judges of the United States are not subject to restrictions as to residence. The place where a retired judge maintains the actual abode in which he customarily lives shall be deemed to be his official station for the purposes of section 456 of this title. The place where a judge or magistrate recalled under section 155, 375, 636, or 797 of this title maintains the actual abode in which the judge or magistrate customarily lives shall be deemed to be the official station of such judge or magistrate for purposes of section 604(a)(7) of this title.

(As amended Nov. 14, 1986, Pub. L. 99-651, title II, § 202(b), 100 Stat. 3648.)

**AMENDMENTS**

1986—Pub. L. 99-651 inserted last sentence.

**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 magistrates**

(a)(1) A bankruptcy judge, a judge of the Claims Court, or a United States magistrate appointed under chapter 43 of this title, who has retired 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, judge of the Claims Court, or magistrate, as the case may be, upon certification that substantial service is expected to be performed by such retired judge or magistrate during such 5-year period. With the agreement of the judge or magistrate 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—

(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.

(3) 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.

(b) A judge or magistrate recalled under this section may exercise all of the powers and duties of the office of judge or magistrate 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 involved shall receive, in addition to the annuity provided 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 is recalled.

(d) A certification under subsection (a) may be terminated in accordance with section 372(c) of this title, and such a certification shall be terminated upon the death of the recalled judge or magistrate involved.

(e) Except as provided in subsection (b), nothing in this section shall affect the right of judges or magistrates 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 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.

(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, a judge of the Claims Court, or a United States magistrate, and any prior service as a referee in bankruptcy, a commissioner of the Court of Claims, or a United States commissioner, may be credited.

(g) Except as provided in subsection (c), a judge or magistrate recalled under this section 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.)

#### REFERENCES IN TEXT

Section 167 of the Federal Courts Improvement Act of 1982, referred to in subsec. (a)(3)(B), is section 187 of Pub. L. 97-164, which is set out as a note under section 171 of this title.

#### PRIOR PROVISIONS

A prior section 375, added Aug. 28, 1954, ch. 1053, § 1, 68 Stat. 916, and amended Aug. 3, 1956, ch. 944, § 1(b), 70 Stat. 1021; Aug. 22, 1972, Pub. L. 92-397, § 1, 86 Stat. 579, which provided for annuities to widows of justices, was repealed by Pub. L. 96-504, § 5, Dec. 5, 1980, 94 Stat. 2742.

#### 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.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 374, 631, 636 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;

[See main edition for text of (C) to (E)]

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; <sup>1</sup> or (iv) October 1, 1986;

(2) "retirement salary" means:

[See main edition for text of (A)]

(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;

[See main edition for text of (C) to (E), (3) and (4)]

(5) "child" means:

[See main edition for text of (A) and (B)]

(C) such unmarried child, regardless of age, who is incapable of self-support because of a mental or physical disability incurred either (i) before age eighteen, or (ii) in the case of a child who is receiving an annuity as a full-time student under subparagraph (5)(B) of this subsection, before the termination of that annuity; and

(6) "former spouse" means a former spouse of a judicial official if the former spouse was married to such judicial official for at least 9 months.

(b) Every judicial official who files a written notification of his or her intention to come within the purview of this section, in accordance with paragraph (1) of subsection (a) of this section, shall be deemed thereby to consent and agree to having deducted and withheld from his or her salary, including any "retirement salary", a sum equal to 5 percent of that salary. The amounts so deducted and withheld from the salary of each such judicial official shall, in accordance with such procedures as may be prescribed by the Comptroller General of the United States, be covered into the Treasury of the United States and credited to the "Judicial Survivors' Annuities Fund" established by section 3 of the Judicial Survivors' Annuities Reform Act. Such fund shall be used for the payment of annuities, refunds, and allowances as provided by this section. Payment of such salary less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all services rendered by such judicial official during the period covered by such payment, except the rights to those benefits to which such judicial official, or his or her survivors, shall be entitled under the provisions of this section.

(c)(1) There shall also be deposited to the credit of the Judicial Survivors' Annuities Fund, in accordance with such procedures as the Comptroller General of the United States may prescribe, amounts required to reduce to zero the unfunded liability of the Judicial Survivors' Annuities Fund: *Provided*, That such amounts shall not exceed the equivalent of 9 percent of salary or retirement salary. Such deposits shall, subject to appropriations Acts, be taken from the fund used to pay the compensation of the judicial official, and shall immedi-

<sup>1</sup>So in original. The semicolon probably should be a comma.

ately become an integrated part of the Judicial Survivors' Annuities Fund for any use required under this section.

(2) For purposes of paragraph (1), the term "unfunded liability" means the estimated excess, determined on an annual basis in accordance with the provisions of section 9503 of title 31, United States Code, of the present value of all benefits payable from the Judicial Survivors' Annuities Fund, over the sum of—

(A) the present value of deductions to be withheld from the future basic pay of judicial officials; plus

(B) the balance in the Fund as of the date the unfunded liability is determined.

In making any determination under this paragraph, the Comptroller General shall use the applicable information contained in the reports filed pursuant to section 9503 of title 31, United States Code, with respect to the judicial survivors' annuities plan established by this section.

(3) There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(d) Each judicial official shall deposit, with interest at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter, compounded on December 31 of each year, to the credit of the "Judicial Survivors' Annuities Fund":

(1) a sum equal to 5 percent of that salary, including "retirement salary", which he or she has received for serving in any of the offices designated in paragraph (1) of subsection (a) of this section prior to the date upon which he or she filed notice of an intention to come within the purview of this section with the Director of the Administrative Office of the United States Courts; and

(2) a sum equal to 5 percent of the basic salary, pay, or compensation which he or she has received for serving as a Senator, Representative, Delegate, or Resident Commissioner in Congress, or for serving as an "employee", as that term is defined in subsection (1) of section 8331 of title 5, prior to assuming the responsibilities of any of the offices designated in paragraph (1) of subsection (a) of this section.

The interest otherwise required by this subsection shall not be required for any period during which a judicial official was separated from all such service and was not receiving any retirement salary.

Each such judicial official may elect to make such deposits in installments, during the continuance of his or her service in those offices designated in paragraph (1) of subsection (a) of this section, in such amounts and under such conditions as may be determined in each instance by the Director of the Administrative Office of the United States Courts: *Provided*, That, in each instance in which a judicial official does elect to make such deposits in installments, the Director shall require (i) that the first installment payment made shall be in an amount no smaller than that amount necessary to cover at least the last eighteen months of prior creditable civilian service, and (ii) that at least one additional installment payment shall

be made every eighteen months thereafter until the total of all such deposits have been made.

Notwithstanding the failure of any such judicial official to make all such deposits or installment payments, credit shall be allowed for the service rendered, but the annuity of that judicial official's widow or widower shall be reduced by an amount equal to 10 percent of the amount of such deposits, computed as of the date of the death of such judicial official, unless such widow or widower shall elect to eliminate such service entirely from credit under subsection (k) of this section: *Provided*, That no deposit shall be required from any such judicial official for any honorable active duty service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States, or for any other creditable service rendered prior to August 1, 1920.

[See main edition for text of (e) to (g)]

(h) Annuities payable under this section shall be paid only in accordance with the following provisions:

(1) In any case in which a judicial official dies while in office, or while receiving "retirement salary," after having completed at least eighteen months of creditable civilian service, as computed in accordance with subsection (k) of this section, for the last eighteen months of which the salary deductions provided by subsection (b) of this section or, in lieu thereof, the deposits required by subsection (d) of this section have actually been made—

[See main edition for text of (A)]

(B) if such judicial official is survived by a widow or widower and a child or children, there shall be paid to such widow or widower an annuity, beginning on the day on which such judicial official died, in an amount computed as provided in subsection (l) of this section, and there shall also be paid to or on behalf of each such child an immediate annuity equal to:

(i) 10 percent of the average annual salary determined under subsection (l)(1) of this section; or

(ii) 20 percent of such average annual salary, divided by the number of children;

whichever is smallest; or

(C) if such judicial official leaves no surviving widow or widower, but does leave a surviving child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to:

[See main edition for text of (i)]

(ii) 20 percent of the average annual salary determined under subsection (l)(1) of this section; or

(iii) 40 percent of such average annual salary amount, divided by the number of children;

whichever is smallest.

(2) An annuity payable to a widow or widower under subparagraphs (1)(A) or (1)(B) of this subsection shall be terminated upon his or her death or remarriage before attaining age 55.

[See main edition for text of (3) to (5); (i) and (j)]

(k) The years of service rendered by a judicial official which may be creditable in calculating the amount of an annuity for such judicial official's widow or widower under subsection (l) of this section shall include—

(1) those years during which such judicial official served in any of the offices designated in paragraph (1) of subsection (a) of this section, including in the case of a Justice or Judge of the United States those years during which he or she continued to hold office following retirement from regular active service under section 371 or subsection (a) of section 372 of this title;

[See main edition for text of (2) to (4)]

For the purposes of this subsection the term "years" shall mean full years and twelfth parts thereof, excluding from the aggregate any fractional part of a month which numbers less than fifteen full days and including, as one full month, any fractional part of a month which numbers fifteen full days or more. Nothing in this subsection shall be interpreted as waiving or cancelling that reduction in the annuity of a widow or widower which is required by subsection (d) of this section due to the failure of a judicial official to make those deposits required by subsection (d) of this section.

(l) The annuity of a widow or widower of a judicial official shall be an amount equal to the sum of—

(1) 1.5 percent of the average annual salary, including retirement salary, which such judicial official received for serving in any of the offices designated in paragraph (1) of subsection (a) of this section (i) during those three years of such service in which his or her annual salary was greatest, or (ii) if such judicial official has so served less than three years, but more than eighteen months, then during the total period of such service prior to his or her death, multiplied by the total of:

[See main edition for text of (A) to (D)]

plus:

(2) three-fourths of 1 percent of such average annual salary, multiplied by the number of years of any prior creditable service, as tabulated in accordance with subsection (k) of this section, not applied under paragraph (1) of this subsection;

except that such annuity shall not exceed an amount equal to 50 percent of such average annual salary, nor be less than an amount equal to 25 percent of such average annual salary. Any annuity determined in accordance with the provisions of this subsection shall be reduced to the extent required by subsection (d) of this section, and by the amount of any annuity payable to a former spouse under subsection (t).

[See main edition for text of (m)]

(n) Each annuity authorized under this section shall accrue monthly and shall be due and payable in monthly installments on the first business day of the month following the month or other period for which the annuity shall have accrued. No annuity authorized under this section shall be assignable, either in law or in equity, except as provided in subsections (s) and (t), or subject to execution, levy, attachment, garnishment, or other legal process.

(o) In any case in which a judicial official dies while in office, or while receiving "retirement salary", and;

[See main edition for text of (1)]

(2) after having completed eighteen months of civilian service, computed in accordance with subsection (k) of this section, during which all such deductions or deposits have been made, but without a survivor or survivors who are entitled to receive the annuity benefits provided by subsection (h) or (t) of this section; or

(3) the rights of all persons entitled to receive the annuity benefits provided by subsection (h) or (t) of this section terminate before a valid claim therefor has been established;

the total amount credited to the individual account of that judicial official, established under subsection (e) of this section, with interest at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter, compounded on December 31, of each year, to the date of that judicial official's death, shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date title to the payment arises, in the following order of precedence:

[See main edition for text of First to Sixth pars.]

Such payment shall be a bar to recovery by any other person. For the purposes of this subsection only, a determination that an individual is a widow, widower, or child of a judicial official may be made by the Director of the Administrative Office of the United States Courts without regard to the definitions of those terms contained in paragraphs (3), (4), and (5) of subsection (a) of this section.

[See main edition for text of (p) to (r)]

(s) A judicial official who has a former spouse may elect, under procedures prescribed by the Director of the Administrative Office of the United States Courts, to provide a survivor annuity for such former spouse under subsection (t). An election under this subsection shall be made at the time of retirement, or, if later, within 2 years after the date on which the marriage of the former spouse to the judicial official is dissolved. An election under this subsection—

(1) shall not be effective to the extent that it—

(A) conflicts with—

(i) any court order or decree referred to in subsection (t)(1), which was issued before the date of such election, or

(ii) any agreement referred to in such subsection which was entered into before such date; or

(B) would cause the total of survivor annuities payable under subsections (h) and (t) based on the service of the judicial official to exceed 55 percent of the average annual salary (as such term is used in subsection (l)) of such official; and

(2) shall not be effective, in the case of a judicial official who is then married, unless it is made with the spouse's written consent.

The Director of the Administrative Office of the United States Courts shall provide by regulation that paragraph (2) of this subsection may be waived if the judicial official establishes to the satisfaction of the Director that the spouse's whereabouts cannot be determined, or that, due to exceptional circumstances, requiring the judicial official to seek the spouse's consent would otherwise be inappropriate.

(t)(1) Subject to paragraphs (2) through (4) of this subsection, a former spouse of a deceased judicial official is entitled to a survivor annuity under this section if and to the extent expressly provided for in an election under subsection (s), or in the terms of any decree of divorce or annulment or any court order or court-approved property settlement agreement incident to such decree.

(2) The annuity payable to a former spouse under this subsection may not exceed the difference between—

(A) the maximum amount that would be payable as an annuity to a widow or widower under subsection (l), determined without taking into account any reduction of such annuity caused by payment of an annuity to a former spouse; and

(B) the amount of any annuity payable under this subsection to any other former spouse of the judicial official, based on an election previously made under subsection (s), or a court order previously issued.

(3) The commencement and termination of an annuity payable under this subsection shall be governed by the terms of the applicable order, decree, agreement, or election, as the case may be, except that any such annuity—

(A) shall not commence before—

(i) the day after the judicial official dies, or

(ii) the first day of the second month beginning after the date on which the Director of the Administrative Office of the United States Courts receives written notice of the order, decree, agreement, or election, as the case may be, together with such additional information or documentation as the Director may prescribe,

whichever is later, and

(B) shall terminate no later than the last day of the month before the former spouse remarries before becoming 55 years of age or dies.

(4) For purposes of this section, a modification in a decree, order, agreement, or election referred to in paragraph (1) of this subsection shall not be effective—

(A) if such modification is made after the retirement of the judicial official concerned, and

(B) to the extent that such modification involves an annuity under this subsection.

(Added Aug. 3, 1956, ch. 944, § 2, 70 Stat. 1021, and amended July 7, 1958, Pub. L. 85-508, § 12(n), 72 Stat. 348; Dec. 20, 1967, Pub. L. 90-219, title II, § 202, 81 Stat. 668; Aug. 8, 1968, Pub. L. 90-486, § 1(a), 82 Stat. 662; Aug. 22, 1972, Pub. L. 92-397, §§ 2, 3(c), 86 Stat. 579, 580; Oct. 19, 1976, Pub. L. 94-554, § 2, 90 Stat. 2603; Nov. 6, 1978, Pub. L. 95-598, title II, § 211, 92 Stat. 2661; June 19, 1986, Pub. L. 99-336, § 2(a), (d)(1)-(3), (e), 100 Stat. 633, 635-637; Aug. 27, 1986, Pub. L. 99-396, § 21(b), 100 Stat. 846.)

#### AMENDMENTS

1986—Subsec. (a)(1). Pub. L. 99-336, § 2(a)(1), substituted "she marries, (iii) January 1, 1977; or (iv) October 1, 1986" for "she marries, or (iii) the date upon which the Judicial Survivors' Annuities Reform Act becomes effective" in concluding provision.

Subsec. (a)(1)(B). Pub. L. 99-396, § 21(b)(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "a judge of the United States District Court for the District of the Canal Zone, the District Court of Guam, or the District Court of the Virgin Islands;".

Subsec. (a)(2)(B). Pub. L. 99-396, § 21(b)(2), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "in the case of a judge of the United States District Court for the District of the Canal Zone, the District Court of Guam, or the District Court of the Virgin Islands, salary paid after retirement from office (i) by resignation on salary under section 373 of this title or (ii) by removal or failure of reappointment after not less than ten years' judicial service;".

Subsec. (a)(6). Pub. L. 99-336, § 2(d)(1), added par. (6).

Subsec. (b). Pub. L. 99-336, § 2(a)(2), substituted "5 percent" for "4.5 percent".

Subsec. (c). Pub. L. 99-336, § 2(a)(3), in amending subsec. (c) generally, designated existing provisions as par. (1), substituted provisions which related to amounts deposited to credit of Judicial Survivors' Annuities Fund to reduce unfunded liability of Fund to zero, for provisions which related to deposit of amounts matching those deducted and withheld in accordance with subsec. (b), and added pars. (2) and (3).

Subsec. (d). Pub. L. 99-336, § 2(a)(2), substituted "5 percent" for "4.5 percent" in pars. (1) and (2).

Subsec. (h)(1)(B). Pub. L. 99-336, § 2(a)(4)(A), substituted "10 percent of the average annual salary determined under subsection (l)(1) of this section" for "\$1,648" in cl. (i) and "20 percent of such average annual salary" for "\$4,844" in cl. (ii).

Subsec. (h)(1)(C). Pub. L. 99-336, § 2(a)(4)(B), substituted "20 percent of the average annual salary determined under subsection (l)(1) of this section" for "\$1,860" in cl. (ii) and "40 percent of such average annual salary amount" for "\$5,580" in cl. (iii).

Subsec. (h)(2). Pub. L. 99-336, § 2(a)(4)(C), inserted "before attaining age 55" after "or remarriage".

Subsec. (k)(1). Pub. L. 99-336, § 2(e), struck out "under subsection (b) of" before "section 371".

Subsec. (l). Pub. L. 99-336, § 2(a)(5)(C), (d)(3)(A), substituted provisions which set annuity limit not to exceed 50 percent of, nor be less than 25 percent of, average annual salary, for provisions which set annuity limit not to exceed 40 percent of average annual

salary, and inserted provision that annuity determined in accordance with provisions of subsec. (l) be reduced by the amount of any annuity payable to a former spouse under subsection (t).

Subsec. (l)(1). Pub. L. 99-336, § 2(a)(5)(A), substituted "1.5 percent" for "1½ percent".

Subsec. (l)(2). Pub. L. 99-336, § 2(a)(5)(B), substituted "of this subsection;" for "of this subsection:".

Subsec. (n). Pub. L. 99-336, § 2(d)(3)(B), inserted "except as provided in subsections (s) and (t)," after "in equity," in last sentence.

Subsec. (o)(2), (3). Pub. L. 99-336, § 2(d)(3)(C), inserted "or (t)" after "subsection (h)".

Subsecs. (s), (t). Pub. L. 99-336, § 2(d)(2), added subsecs. (s) and (t).

1978—Subsec. (a)(2)(A). Pub. L. 95-598 directed the amendment of subpar. (A) by adding cl. (iii) relating to bankruptcy judges, which amendment 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.

#### EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99-396 not to affect the amount payable to a judge who retired in accordance with the provisions of section 373 of this title in effect on the day before Aug. 27, 1986, see section 21(c) of Pub. L. 99-396, set out as a note under section 373 of this title.

Section 2(f) of Pub. L. 99-336 provided that: "This section [amending this section and enacting provisions set out as notes below] shall take effect on October 1, 1986."

#### COVERED BENEFICIARIES UNDER PUB. L. 99-336

Section 2(b) of Pub. L. 99-336 provided that: "The benefits conferred by section 376 of title 28, United States Code, by reason of the amendments made by this section shall apply only to individuals who become eligible for annuities under such section on or after the effective date of this section [Oct. 1, 1986], except that—

"(1) such annuities shall be computed in accordance with the provisions of section 376 of title 28, United States Code, as amended by this section, notwithstanding contributions or deposits made in accordance with applicable law at lower rates; and

"(2) no additional liability shall be created with respect to deposits made in accordance with applicable law before the effective date of this section, or after such effective date pursuant to an agreement entered into before such effective date."

#### REVOCATION OF ELECTION; ELIGIBILITY SUBSEQUENT TO REVOCATION

Section 2(c) of Pub. L. 99-336 provided that:

"(1) Within 180 days after the effective date of this section [Oct. 1, 1986], any judicial official who, before such effective date, made an election under section 376 of title 28, United States Code, to come within the purview of that section, shall be entitled to revoke that election. Such revocation shall constitute a complete withdrawal from the judicial survivors' annuities program provided for in such section 376. No such revocation shall be effective unless it is submitted in writing to the Director of the Administrative Office of the United States Courts, and until such writing is received by the Director. Upon receipt by the Director of such writing, any rights to survivorship benefits for the survivors of such judicial official shall terminate, and all amounts credited to the individual account of such judicial official under section 376(c), together with interest at 3 percent per annum, compounded on December 31 of each year to such date of revocation, shall be returned to that judicial official in a lump-sum payment.

"(2) Any judicial official who makes a revocation under paragraph (1) of this subsection and who thereafter becomes eligible to make an election under sec-

tion 376(b) of title 28, United States Code, may make such election only if such judicial official redeposits, to the credit of the Judicial Survivors' Annuities Fund, the full amount of the lump-sum payment made to such judicial official under paragraph (1) of this subsection, together with interest at 3 percent per annum, compounded on December 31 of each year from the date of such revocation until the date upon which that amount is so redeposited.

"(3) Any judicial official who fails to revoke an election in accordance with paragraph (1) of this subsection shall be deemed to have irrevocably waived the right to make that revocation."

#### PAYMENT OF RETIREMENT SALARY PURSUANT TO COURT DECREE OF DIVORCE, ETC.

Section 2(d)(4) of Pub. L. 99-336 provided that: "Payments of retirement salary as defined in section 376(a)(2) of title 28, United States Code, which would otherwise be made to the judicial official upon whose service the retirement salary is based, shall be paid (in whole or in part) to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person. This paragraph shall apply only to payments made after the date of receipt by the Director of the Administrative Office of [the] United States Courts of written notice of such decree, order, or agreement, and such additional information and documentation as the Director may prescribe. As used in this paragraph, 'court' means any court of any State or the District of Columbia."

### CHAPTER 21—GENERAL PROVISIONS APPLICABLE TO COURTS AND JUDGES

#### § 451. Definitions

*[See main edition for text]*

(June 25, 1948, ch. 646, 62 Stat. 907; Mar. 18, 1959, Pub. L. 86-3, § 10, 73 Stat. 9; Sept. 12, 1968, Pub. L. 89-571, § 3, 80 Stat. 764; Nov. 6, 1978, Pub. L. 95-598, title II, § 213, 92 Stat. 2661; Oct. 10, 1980, Pub. L. 96-417, title V, § 501(10), 94 Stat. 1742; Apr. 2, 1982, Pub. L. 97-164, title I, § 114, 96 Stat. 29.)

#### AMENDMENTS

1978—Pub. L. 95-598 directed the amendment of section by inserting references to bankruptcy courts and bankruptcy judges, which amendment 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.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 373, 378, 581, 1821 of this title; title 2 section 130b; title 5 sections 5537, 8331, 8344, 8468; title 10 section 1408; title 12 sections 1464, 1730; title 18 sections 351, 4107, 4108.

#### § 453. Oaths of justices and judges

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 460, 631 of this title.

#### § 456. Traveling expenses of justices and judges; official duty stations

(a) The Director of the Administrative Office of the United States Courts shall pay each jus-