

1 U.S.C.A. § 108



Effective: [See Text Amendments]

United States Code Annotated [Currentness](#)

Title 1. General Provisions ([Refs & Annos](#))

[Chapter 2.](#) Acts and Resolutions; Formalities of Enactment; Repeals; Sealing of Instruments

→ § 108. Repeal of repealing act

Whenever an Act is repealed, which repealed a former Act, such former Act shall not thereby be revived, unless it shall be expressly so provided.

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CREDIT(S)

(July 30, 1947, c. 388, 61 Stat. 635.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1947 Acts. House Report No. 251, see 1947 U.S. Code Cong. Service, p. 1511.

LIBRARY REFERENCES

American Digest System

Statutes  169.

Key Number System Topic No. 361.

RESEARCH REFERENCES

Encyclopedias

[Am. Jur. 2d Statutes § 308](#), Effect of Repeal of Repealing Statute -- Effect of Statutory Modifications of Common-Law Rule.

NOTES OF DECISIONS

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[1](#). Generally

This section prescribes a rule of construction and does nothing more. [Jacksonville, Pensacola & Mobile R. Co. v. U.S., Ct.Cl.1886, 21 Ct.Cl. 155](#), affirmed [7 S.Ct. 48, 118 U.S. 626, 30 L.Ed. 273](#).

[2](#). Prior law

Prior to the enactment of the Act from which former section 28 of this title [now this section] was drawn, the effect of the repeal of a repealing Act was, without formal words for that purpose, to restore the law as it was before the passage of the latter Act, and such was the rule where the effect of the repealing statute was not, by its own terms, or by some general statute, limited to the abrogation of the Act repealed. [U S v. Philbrick, U.S.Ct.Cl.1887, 7 S.Ct. 413, 120 U.S. 52, 30 L.Ed. 559](#).

[3](#). Common law

Former section 28 of this title [now this section] changes the common law rule that the repeal of a repealing Act revives the former Act. [Bender v. U S, C.C.A.3 \(N.J.\) 1937, 93 F.2d 814](#).

[4](#). Retroactive effect

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The Act on which former section 28 of this title [now this section] was based was not retroactive. [U S v. Philbrick, U.S.Ct.Cl.1887, 7 S.Ct. 413, 120 U.S. 52, 30 L.Ed. 559.](#)

5. Expiration of repealing act

When a statute contains an absolute affirmative repeal of an antecedent statute, or part of it, the expiration of the subsequent statute by its own limitation will not revive the repealed Act. [U S v. Twenty-Five Cases of Cloths, D.C.Pa.1840, 28 F.Cas. 257](#), No. 16,563, affirmed [44 U.S. 197, 3 How. 197, 11 L.Ed. 559](#). Statutes  172

On the expiration of a repealing Act by its own limitation, the Act repealed is revived; former section 28 of this title [now this section] having no application to such a case. 1892, 20 Op.Atty.Gen. 466, 467.

6. Repeal by implication

Repeals of statutes by implication are not favored, and intention of Congress to repeal, modify or supersede must be clear and manifest. [In re Bear River Drainage Dist., C.A.Utah 1959, 267 F.2d 849](#). See, also, [Lietz v. Flemming, C.A.Mich.1959, 264 F.2d 311](#), certiorari denied [80 S.Ct. 66, 361 U.S. 820, 4 L.Ed.2d 66](#). Statutes  158

To repeal a prior Act there must be a positive repugnancy between the provisions of the new law and those of the old, and even then the old law is repealed by implication only pro tanto to the extent of the repugnancy. [Lietz v. Flemming, C.A.Mich.1959, 264 F.2d 311](#), certiorari denied [80 S.Ct. 66, 361 U.S. 820, 4 L.Ed.2d 66](#). See also, [Securities and Exchange Commission v. Morgan, Lewis & Bockius, E.D.Pa.1953, 113 F.Supp. 85](#), affirmed [209 F.2d 44](#). Statutes  159

Repeals of statutes by implication are not favored. [Brown Paper Mill Co. v. C.I.R., C.A.La.1958, 255 F.2d 77](#), certiorari denied [79 S.Ct. 229, 358 U.S. 906, 3 L.Ed.2d 227](#), rehearing denied [79 S.Ct. 344, 358 U.S. 942, 3 L.Ed.2d 350](#). See, also, [Lietz v. Flemming, C.A.Mich.1959, 264 F.2d 311](#), certiorari denied [80 S.Ct. 66, 361 U.S. 820, 4 L.Ed.2d 66](#); [National Mfg. Co. v. U.S., C.A.8, 1954, 210 F.2d 263](#), certiorari denied [74 S.Ct. 778, 347 U.S. 967, 98 L.Ed. 1108](#); [Trans World Airlines, Inc. v. Hughes, S.D.N.Y.1963, 214 F.Supp. 106](#); [Vann v. Jackson, D.C.N.C.1958, 165 F.Supp. 377](#); [Clark v. U. S., D.C.Or.1952, 109 F.Supp. 213](#), affirmed [218 F.2d 446](#). Statutes  158

Courts will not, unless conflict between two Acts is inescapable, exclude from coverage of an Act matters which in terms expressly include, on theory that another Act whose general purpose seems inconsistent has impliedly repealed or limited the Act under review, and only where it is found that it is not possible for both Acts to co-exist can an Act be held to repeal or limit another, and then only in respect to precise point of conflict. [U.S. v. 24 Cans Containing Butter, C.C.A.5 \(Ala.\) 1945, 148 F.2d 365](#), certiorari denied [66 S.Ct. 90, 326 U.S. 752, 90 L.Ed. 450](#), rehearing denied [66 S.Ct. 166, 326 U.S. 808, 90 L.Ed. 493](#). Statutes  142; Statutes  159

Where there are reasonable grounds for continued effectiveness of both statutes, a repeal will not be presumed. [U S v. Kushner, C.C.A.2 \(N.Y.\) 1943, 135 F.2d 668](#), certiorari denied [63 S.Ct. 1449, 320 U.S. 212, 87 L.Ed. 1850](#), rehearing denied [64 S.Ct. 32, 320 U.S. 808, 88 L.Ed. 488](#). Statutes  158

Later general statute will not be held to repeal by implication prior special statute. [U. S. v. Com. of Pa., M.D.Pa.1963, 220 F.Supp. 144](#). Statutes  162

Repeals of statutes by implication are not favored, especially when implication is a strained and dubious one. [Sunbeam Corp. v. Gem Jewelry Co., D.C.Hawai'i 1957, 157 F.Supp. 838](#). Statutes  158

A repeal by implication of either a statute or a franchise is not favored. [U.S. v. 85,237 Acres of Land, More or Less, in Zapata County, Tex., S.D.Tex.1957, 157 F.Supp. 150](#), affirmed [252 F.2d 116](#). Franchises  4; Statutes  158

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A subsequent Act does not repeal a former one not specifically mentioned unless the provisions of the latter are necessarily inconsistent with the former especially when the former Act dealt with a specific aspect of the subject and the subsequent Act dealt with the subject in general. [Bourquin v. U. S., Ct.Cl.1947, 72 F.Supp. 76, 108 Ct.Cl. 700](#), certiorari denied [68 S.Ct. 66, 332 U.S. 762, 92 L.Ed. 348](#). Statutes  159; Statutes  162

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Current through P.L. 110-49 approved 07-26-07

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