



**Legislative History**  
**of the**  
**Welfare and Pension Plans**  
**Disclosure Act of 1958,**  
**as amended by**  
**Public Law 87-420 of 1962**

## UNITED STATES DEPARTMENT OF LABOR

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## Foreword

The purpose of the Welfare and Pension Plans Disclosure Act, signed into law on August 28, 1958, is to provide for the registration, reporting, and disclosure to participants and beneficiaries of employee welfare and pension benefit plans of financial and other information relating to such plans. This Act was strengthened by the Welfare and Pension Plans Disclosure Act Amendments of 1962, which were signed into law by President Kennedy on March 20, 1962. Among other things, the amendments confer certain investigatory and enforcement powers upon the Secretary of Labor, authorize the Secretary of Labor to issue written interpretations on which plan administrators may rely, provide for bonding of certain persons who handle plan funds, and make Federal crimes of theft, embezzlement, false statements, kickbacks, and bribery with respect to plans subject to the Welfare and Pension Plans Disclosure Act.

Shortly after the passage of the 1962 Amendments, the Division of Labor Management Laws, Office of the Solicitor, undertook to collect and prepare for publication the materials included in this Legislative History. This project was conducted under the immediate supervision of Morton J. Marks and Ernest J. Corrado, who were assisted by Cornelius S. Donoghue, Jr., Arthur B. Patrizio, Sonya I. Livshin, Michael S. Gordon, George E. Rivers and Jean P. Edwards.

As a public service, I am pleased to make these compiled materials available for public use and I hope that they will be helpful to those persons who have occasion to use them.

A handwritten signature in dark ink, reading "W. Willard Wirtz". The signature is written in a cursive, flowing style with a prominent "W" and "W".

W. WILLARD WIRTZ,  
*Secretary of Labor.*

## Key to Arrangement of Legislative History of the Welfare and Pension Plans Disclosure Act, as Amended.

The following Legislative History of the Welfare and Pension Plans Disclosure Act, as Amended, is arranged as follows:

Section 1 deals with general and background matters.

Sections 2 through 18 are keyed to correspond with sections of the Welfare and Pension Plans Disclosure Act, as Amended.

Following Section 18 are the "Criminal Provisions" (amendments to Title 18 U.S. Code), which were enacted by the 1962 amendments.

Only the most pertinent portions of the 1961 Senate and House Hearings have been excerpted. In addition, separate indexes to the 1957 and 1961 Senate and House Hearings have been prepared for use as supplements to the attached materials. The index to the Senate Hearings, 1957, has been keyed to the Act, as amended. The indexes to the House Hearings, 1957, and the Senate and House Hearings, 1961, have been keyed to the Outline of the Act found in the Introductory Materials.

The following abbreviations have been used:

DCR	Daily Congressional Record
BCR	Bound Congressional Record
SR	Senate Report
HR	House Report
HH	House Hearing
SH	Senate Hearing

Citations identifying materials from which excerpts have been taken directly follow each excerpt.

## **Outline of the Welfare and Pension Plans Disclosure Act, as Amended, to Which the Legislative History Is Keyed**

### **Section 2 — Findings and Policy**

#### **DEFINITIONS**

- Section 3 — (1) Employee Welfare Benefit Plan  
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(3) Employee Organization  
(4) Employer  
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#### **COVERAGE**

- Section 4 — (a) General Coverage  
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#### **DUTY OF DISCLOSURE AND REPORTING**

- Section 5 — (a) (1) Publication of plan description and annual report  
(2) Regulations of Secretary—form and detail of reports  
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#### **DESCRIPTION OF THE PLAN**

- Section 6 — (a) Time for filing  
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(1) Manner of execution  
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## ANNUAL REPORTS

- Section 7 — (a) (1) Time for filing  
(2) Plans covering under 100 participants  
(b) (1) Information required to be included  
(2) Manner of execution  
(3) Certification of report prior to investigation  
(c) Unfunded plans (See also Sec. 7(f) (3))  
(d) Benefits provided by insurance carrier—additional information required  
(e) Additional information required from welfare benefit plans  
(f) Additional information required from pension benefit plans  
(1) Plans funded through a trust  
(A) Type and basis of funding  
(B) Types of assets  
(C) Cost, value and percentage of investments in securities, etc.  
(D) Loans  
(2) Plans funded through an insurance contract  
(A) Type and basis of funding  
(B) Amount of current and past service liabilities and amount of accumulated reserves  
(3) Unfunded pension plans—report also includes total benefits paid to retired employees broken down by year for past 5 years (See also Sec. 7(c))  
(g) Information certified by insurance company to plan administrators  
(h) Simplified reports (Short form)

## PUBLICATION

- Section 8 — (a) Publication of reports and descriptions  
(1) Available at principal office  
(2) By mailing upon request to participants or beneficiaries  
(b) Reports and descriptions  
(1) Filed with Department of Labor  
(2) Available for examination in public document room of Department of Labor  
(c) Preparation and use of forms

## ENFORCEMENT

- Section 9 — (a) Willful violation of the Act—misdemeanor provision  
(b) \$50.00 a day penalty for failure to furnish description or report to participant or beneficiary  
(c) Action by participant or beneficiary to recover penalty and counsel fee  
(d) Investigations by Secretary of Labor  
(e) Subpoena powers of Secretary  
(f) Injunction actions brought by Secretary  
(g) Jurisdiction of courts

- (h) (1) Specific prohibition against interference in management of plans by Secretary
- (2) Disclosure of investment and other matters for investigatory purposes
- (i) Forwarding of information warranting consideration of criminal prosecution to Department of Justice

#### REPORTS MADE PUBLIC INFORMATION

- Section 10 — (1) Description and annual report made public information
- (2) Use of information for statistical and research purposes

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#### ADMINISTRATION

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- 18 U.S.C. 664 Theft or embezzlement from plan
- 18 U.S.C. 1027 False statements and concealment of facts in relation to  
documents required by the WPPDA
- 18 U.S.C. 1954 Offer, acceptance or solicitation to influence operations  
of plan

**Text of the Welfare and Pension Plans Disclosure Act of 1958,  
as Amended by Public Law 87-420 of 1962.<sup>1</sup>**

Public Law 85-836  
85th Congress, S. 2888  
August 28, 1958

**AN ACT**

To provide for registration, reporting, and disclosure of employee welfare and pension benefit plans  
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Welfare and Pension Plans Disclosure Act".

as amended by  
Public Law 87-420  
87th Congress, H.R. 8723  
March 20, 1962

**AN ACT**

To amend the Welfare and Pension Plans Disclosure Act with respect to the method of enforcement and to provide certain additional sanctions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Welfare and Pension Plans Disclosure Act Amendments of 1962."

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- Sec. 19. Effective date of the 1962 amendments.

<sup>1</sup> KEY TO AMENDMENTS: Portions of the Act, which have been deleted by the "Welfare and Pension Plans Disclosure Act Amendments of 1962", are enclosed in brackets; portions which have been added to the Act are in italics; unchanged portions are shown in regular type.

## FINDINGS AND POLICY

Sec. 2. (a) The Congress finds that the growth in size, scope, and numbers of employee welfare and pension benefit plans in recent years has been rapid and substantial; that the continued well-being and security of millions of employees and their dependents are directly affected by these plans; that they are affected with a national public interest; that they have become an important factor affecting the stability of employment and the successful development of industrial relations; that they have become an important factor in commerce because of the interstate character of their activities, and of the activities of their participants, and the employers, employee organizations, and other entities by which they are established or maintained; that owing to the lack of employee information concerning their operation, it is desirable in the interests of employees and their beneficiaries, and to provide for the general welfare and the free flow of commerce, that disclosure be made with respect to the operation and administration of such plans.

(b) It is hereby declared to be the policy of this Act to protect interstate commerce and the interests of participants in employee welfare and pension benefit plans and their beneficiaries, by requiring the disclosure and reporting to participants and beneficiaries of financial and other information with respect thereto.

## DEFINITIONS

Sec. 3. [(a)] When used in this Act—

(1) The term “employee welfare benefit plan” means any plan, fund, or program which is communicated [to] or its benefits described in writing to the employees, and which was heretofore or is hereafter established by an employer or by an employee organization, or by both, for the purpose of providing for its participants or their beneficiaries, through the purchase of insurance or otherwise, medical, surgical, or hospital care or benefits, or benefits in the event of sickness, accident, disability, death or unemployment.

(2) The term “employee pension benefit plan” means any plan, fund, or program which is communicated or its benefits described in writing to the employees, and which was heretofore or is hereafter established by an employer or by an employee organization, or by both, for the purpose of providing for its participants or their beneficiaries, by the purchase of insurance or annuity contracts or otherwise, retirement benefits, and includes any profit-sharing plan which provides benefits at or after retirement.

(3) The term “employee organization” means any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning an employee welfare or pension benefit plan, or other matters incidental to employment relationships; or any employees’ beneficiary association organized for the purpose, in whole or in part, of establishing such a plan.

(4) The term “employer” means any person acting directly as an employer or indirectly in the interest of an employer in relation to an employee welfare or pension benefit plan, and includes a group or association of employers acting for an employer in such capacity.

(5) The term “employee” means any individual employed by an employer.

(6) The term “participant” means any employee or former employee of an employer or any member of an employee organization who is or may become eligible to receive a benefit of any type from an employee welfare or pension benefit plan, or whose beneficiaries may be eligible to receive any such benefit.

(7) The term “beneficiary” means a person designated by a participant or by the terms of an employee welfare or pension benefit plan who is or may become entitled to a benefit thereunder.

(8) The term “person” means an individual, partnership, corporation, mutual company, joint-stock company, trust, unincorporated organization, association, or employee organization.

(9) The term “State” [means] *includes* any State of the United States, the District of Columbia, [Hawaii,] Puerto Rico, the Virgin Islands, *American Samoa, Guam, Wake Island*, [and] the

Canal Zone [.] , and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343).

(10) The term "commerce" means trade, commerce, transportation, or communication among the several States, or between any foreign country and any State, or between any State and any place outside thereof.

(11) The term "industry or activity ["] affecting commerce" means *any activity, business, or industry in commerce [.] or [burdening or obstructing] in which a labor dispute would hinder or obstruct commerce or the free flow of commerce [.] and includes any activity or industry "affecting commerce" within the meaning of the Labor-Management Relations Act, 1947, as amended, or the Railway Labor Act, as amended.*

(12) The term "Secretary" means the Secretary of Labor.

(13) The term "party in interest" means *any administrator, officer, trustee, custodian, counsel, or employee of any employee welfare benefit plan or employee pension benefit plan, or a person providing benefit plan services to any such plan, or an employer any of whose employees are covered by such a plan or officer or employee or agent of such employer, or an officer or agent or employee of an employee organization having members covered by such plan.*

## COVERAGE

Sec. 4. (a) Except as provided in subsection (b), this Act shall apply to any employee welfare or pension benefit plan if it is established or maintained by any employer or employers engaged in commerce or in any industry or activity affecting commerce or by any employee organization or organizations representing employees engaged in commerce or in any industry or activity affecting commerce or by both.

(b) This Act shall not apply to an employee welfare or pension benefit plan if—

(1) such plan is administered by the Federal Government or by the government of a State, by a political subdivision of a State, or by an agency or instrumentality of any of the foregoing;

(2) such plan was established and is maintained solely for the purpose of complying with applicable workmen's compensation laws or unemployment compensation disability insurance laws;

(3) such plan is *administered by an organization which is exempt from taxation under the provisions of section 501(a) of the Internal Revenue Code of 1954 and is administered as a corollary to membership in a fraternal benefit society described in section 501(c) (8) of such Code or by organizations described in sections 501(c) (3) and 501(c) (4) of such Code [.] : Provided, that the provisions of this paragraph shall not exempt any plan administered by a fraternal benefit society or organization which represents its members for purposes of collective bargaining; or*

(4) such plan covers not more than twenty-five [employees] participants.

## DUTY OF DISCLOSURE AND REPORTING

Sec. 5. (a) The administrator of an employee welfare benefit plan or an employee pension benefit plan shall publish in accordance with section 8 to each participant or beneficiary covered thereunder (1) a description of the plan and (2) an annual financial report.

Such description and such report shall contain *the information required by sections 6 and 7 of this Act in such form and detail as the Secretary shall by regulations prescribe and copies thereof shall be executed, published, and filed in accordance with the provisions of this Act and the Secretary's regulations thereunder. No regulation shall be issued under the preceding sentence which relieves any administrator of the obligation to include in such description or report any information relative to his plan which is required by section 6 or 7. Notwithstanding the foregoing, if the Secretary finds, on the record after giving interested persons an opportunity to be heard, that specific information on plans of certain kinds or on any class or classes of benefits described in section 3(1) and (2) which are provided by such plans cannot, in the normal method of operation of such plans, be practicably ascertained or made available for publication in the manner or for the period prescribed in any provision of this Act, or that the information if published in such manner or for such period would be duplicative or uninformative, the Secretary may by regulations*

*prescribe such other manner or such other period for the publication of such information as he may determine to be necessary and appropriate to carry out the purposes of this Act.*

(b) The term "administrator" whenever used in this Act, refers to—

(1) the person or persons designated by the terms of the plan or the collective bargaining agreement with responsibility for the ultimate control, disposition, or management of the money received or contributed; or

(2) in the absence of such designation, the person or persons actually responsible for the control, disposition, or management of the money received or contributed, irrespective of whether such control, disposition, or management is exercised directly or through an agent or trustee designated by such person or persons.

## DESCRIPTION OF THE PLAN

Sec. 6. (a) Except as provided in section 4, the description of any employee welfare or pension benefit plan shall be published as required herein within ninety days of the effective date of this Act or within ninety days after the establishment of such plan, whichever is later.

(b) The description of the plan shall be published, signed, and sworn to by the person or persons defined as the "administrator" in section 5, and shall include their names and addresses, their official positions with respect to the plan, and their relationship, if any, to the employer or to any employee organizations, and any other offices, positions, or employment held by them; the name, address, and description of the plan and the type of administration; the schedule of benefits; the names, titles, and addresses of any trustee or trustees (if such persons are different for those persons defined as the "administrator"); whether the plan is mentioned in a collective bargaining agreement; copies of the plan or of the bargaining agreement, trust agreement, contract, or other instrument, if any, under which the plan was established and is operated; the source of the financing of the plan and the identity of any organization through which benefits are provided; whether the records of the plan are kept on a calendar year basis, or on a policy or other fiscal year basis, and if on the latter basis, the date of the end of such policy or fiscal year; the procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for the redress of claims which are denied in whole or in part. Amendments to the plan reflecting changes in the data and information included in the original plan, other than data and information also required to be included in annual reports under section 7, shall be included in the description on and after the effective date of such amendments. *Any change in the information required by this subsection shall be reported to the Secretary within sixty days after the change has been effectuated.*

## ANNUAL REPORTS

Sec. 7. (a) The administrator of any employee welfare or pension benefit plan, a description of which is required to be published under section 6, shall also publish an annual report with respect to such plan *[.] if it covers one hundred or more participants. However, the Secretary, after investigation, may require the administrator of any plan otherwise covered by the Act to publish such report when necessary and appropriate to carry out the purposes of the Act.*

Such report shall be published as required under section 8, within one hundred and [twenty] fifty days after the end of the calendar year (or, if the records of the plan are kept on a policy or other fiscal year basis, within one hundred and [twenty] fifty days after the end of such policy or fiscal year).

(b) A report under this section shall be signed by the administrator and such report shall include the following:

The amount contributed by [the employer or employers] *each employer*; the amount contributed by the employees; the amount of benefits paid or otherwise furnished; the number of employees covered; a [summary] statement of assets *specifying the total amount in each of the following types of assets: cash, Government bonds, non-Government bonds and debentures, common stocks, preferred stocks, common trust funds, real estate loans and mortgages, operated real estate,*

*other real estate, and other assets; a statement of liabilities, receipts, and disbursements of the plan; a detailed statement of the salaries and fees and commissions charged to the plan, to whom paid, in what amount, and for what purposes. The Secretary, when he has determined that an investigation is necessary in accordance with section 9(d) of this Act, may require the filing of supporting schedules of assets and liabilities. The information required by this section shall be sworn to by the administrator, or certified to by an independent certified or licensed public accountant, based upon a comprehensive audit conducted in accordance with accepted standards of auditing, but nothing herein shall be construed to require such an audit of the books or records of any bank, insurance company, or other institution providing an insurance, investment, or related function for the plan, if such books or records are subject to examination by any agency of the Federal Government or the government of any State. In the case of reports sworn to, but not certified, the Secretary, when he determines that it may be necessary to investigate the plan in accordance with section 9(d) of this Act, shall, prior to investigation by the Department of Labor, require certification of the report by an independent certified or licensed public accountant.*

(c) If the plan is unfunded, the report shall include only the total benefits paid and the average number of employees eligible for participation, during the past five years, broken down by years; and a statement, if applicable, that the only assets from which claims against the plan may be paid are the general assets of the employer.

(d) If some or all of the benefits under the plan are provided by an insurance carrier or service or other organization such report shall include with respect to such plan (in addition to the information required by subsection (b)) the following:

(1) The premium rate or subscription charge and the total premium or subscription charges paid to each such carrier or organization and the approximate number of persons covered by each class of such benefits.

(2) The total amount of premiums received, the approximate number of persons covered by each class of benefits, and the total claims paid by such carrier or other organization; dividends or retroactive rate adjustments, commissions, and administrative service or other fees or other specific acquisition costs, paid by such carrier or other organization; any amounts held to provide benefits after retirement; the remainder of such premiums; and the names and addresses of the brokers, agents, or other persons to whom commissions or fees were paid, the amount paid to each, and for what purpose: Provided, That if any such carrier or other organization does not maintain separate experience records covering the specific groups it serves, the report shall include in lieu of the information required by the foregoing provisions of this paragraph (A) a statement as to the basis of its premium rate or subscription charge, the total amount of premiums or subscription charges received from the plan, and a copy of the financial report of the carrier or other organization and (B), if such carrier or organization incurs specific costs in connection with the acquisition or retention of any particular plan or plans, a detailed statement of such costs.

(e) Details relative to the manner in which any funds held by an employee welfare benefit plan are held or invested shall be reported as provided under paragraphs (B), (C), and (D) of subsection (f) (1).

(f) Reports on employee pension benefit plans shall include, in addition to the applicable information required by the foregoing provisions of this section, the following:

(1) If the plan is funded through the medium of a trust, the report shall include—

(A) the type and basis of funding, actuarial assumptions used, the amount of current and past service liabilities, and the number of employees, both retired and nonretired covered by the plan;

(B) a [summary] statement showing the assets of the fund [broken down by types, such as cash investments in governmental obligations, investments in nongovernmental bonds, and investments in corporate stocks.] as required by section 7(b). Such assets shall be valued on the basis regularly used in valuing investments held in the fund and reported to the United States Treasury Department, or shall be valued at their aggregate cost or present value, whichever is lower, if such a statement is not so required to be filed with the United States Treasury Department;



(C) a detailed list, including information as to cost, present value, and percentage of total [fund] *funds*, of all investments in securities or properties of the employer or employee organization, or any other party in interest [by reason of being an officer, trustee, or employee of such fund], but the identity of all securities and the detail of brokerage fees and commissions incidental to the purchase or sale of such securities need not be revealed if such securities are listed and traded on an exchange subject to regulation by the Securities and Exchange Commission or securities in an investment company registered under the Investment Company Act of 1940, or securities of a public utility holding company registered under the Public Utility Holding Company Act of 1935, and the statement of assets contains a statement of the total investments in common stock, preferred stock, bonds and debentures, respectively, [listed at their aggregate cost or present value, whichever is lower.] *valued as provided in subparagraph (B)*;

(D) a detailed list of all loans made to the employer, employee organization, or other party in interest [by reason of being an officer, trustee, or employee of such fund], including the terms and conditions of the loan and the name and address of the borrower: Provided, That if the plan is funded through the medium of a trust invested, in whole or in part, in one or more insurance or annuity contracts with an insurance carrier, the report shall include, as to the portion of the funds so invested, only the information required by paragraph (2) below.

(2) If the plan is funded through the medium of a contract with an insurance carrier, the report shall include—

(A) the type and basis of funding, actuarial assumptions used in determining the payments under the contract, and the number of employees, both retired and nonretired, covered by the contract; and

(B) except for benefits completely guaranteed by the carrier, the amount of current and past service liabilities, based on those assumptions, and the amount of all reserves accumulated under the plan.

(3) If the plan is unfunded, the report shall include the total benefits paid to retired employees for the past five years, broken down by year.

*(g) If some or all of the benefits under the plan are provided by an insurance carrier or service or other organization, such carrier or organization shall certify to the administrator of such plan, within one hundred and twenty days after the end of each calendar, policy, or other fiscal year, as the case may be, such reasonable information determined by the Secretary to be necessary to enable such administrator to comply with the requirements of this Act.*

*(h) The Secretary shall prescribe by general rule simplified reports for plans which he finds that by virtue of their size or otherwise a detailed report would be unduly burdensome, but the Secretary may revoke such provisions for simplified forms for any plan if the purposes of the Act would be served thereby.*

## PUBLICATION

Sec. 8. (a) Publication of the description of the plan and the latest annual report required under this Act shall be made to the participants and to the beneficiaries covered by the particular plan as follows:

(1) The administrator shall make copies of such description of the plan (including all amendments or modifications thereto upon their effective date) and of the latest annual report available for examination by any participant or beneficiary in the principal office of the plan.

(2) The administrator shall deliver upon written request to such participant or beneficiary a copy of the description of the plan (including all amendments or modifications thereto upon their effective date) and [a] *an adequate* summary of the latest annual report, by mailing such documents to the last known address of the participant or beneficiary making such request.

(b) The administrator of any plan subject to the provisions of this Act shall file with the Secretary [of Labor] two copies of the description of the plan and each annual report thereon. The Secretary [of Labor] shall make available for examination in the public document room of the

Department of Labor copies of descriptions of plans and annual reports filed under this subsection.

(c) The Secretary [of Labor] shall prepare forms for the descriptions of plans and the annual reports required by the provisions of this Act, and shall make such forms available to the administrators of such plans on request.

## ENFORCEMENT

Sec. 9. (a) Any person who willfully violates any provision [of sections 5 or 8] of this Act shall be fined not more than \$1,000, or imprisoned not more than six months [ ], or *both*.

(b) Any administrator of a plan who fails or refuses, upon the written request of a participant or beneficiary covered by such plan, to make publication to him within thirty days of such request, in accordance with the provisions of section 8, of a description of the plan or an annual report containing the information required by sections 6 and 7, may in the court's discretion become liable to any such participant or beneficiary making such request in the amount of \$50 a day from the date of such failure or refusal.

(c) Action to recover such liability may be maintained in any court of competent jurisdiction by any participant or beneficiary. The court in such action may in its discretion, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.

(d) *The Secretary may, after first requiring certification in accordance with section 7(b), upon complaint of violation not satisfied by such certification, or on his own motion, when he continues to have reasonable cause to believe investigation may disclose violations of this Act, make such investigations as he deems necessary, and may require or permit any person to file with him a statement in writing, under oath or otherwise, as to all the facts and circumstances concerning the matter to be investigated.*

(e) [The provisions of section 1001 of title 18 of the United States Code shall be applicable to any description of a plan or any annual report which is sworn to under this Act.] *For the purposes of any investigation provided for in this Act, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, records, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary or any officers designated by him.*

(f) *Whenever it shall appear to the Secretary that any person is engaged in any violation of the provisions of this Act, he may in his discretion bring an action in the proper district court of the United States or United States court of any place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted.*

(g) [(d)] The [district courts of the] United States *district courts* and the United States courts of [the Territories and possessions] *of any place subject to the jurisdiction of the United States* shall have jurisdiction, for cause shown, [and subject to the provisions of Rule 65 (relating to notice to adverse party) of the rules of civil procedure for the United States district courts, as amended (U.S.C. 1952 edition, Title 28, section 2072),] *to restrain violations [of section 8.] of this Act.*

(h) *Nothing contained in this Act shall be so construed or applied as to authorize the Secretary to regulate, or interfere in the management of, any employee welfare or pension benefit plan, except that the Secretary may inquire into the existence and amount of investments, actuarial assumptions, or accounting practices only when it has been determined that investigation is required in accordance with section 9(d) of this Act.*

(i) *The Secretary shall immediately forward to the Attorney General or his representative any information coming to his attention in the course of the administration of this Act which may warrant consideration for criminal prosecution under the provisions of this Act or other Federal law.*



## REPORTS MADE PUBLIC INFORMATION

Sec. 10. *The contents of the descriptions and regular annual reports filed with the Secretary pursuant to this Act shall be public information, and the Secretary, where to do so would protect the interests of participants or beneficiaries of a plan, may publish any such information and data. The Secretary may use the information and data for statistical and research purposes, and compile and publish such studies, analyses, reports, and surveys based thereon as he may deem appropriate.*

## RETENTION OF RECORDS

Sec. 11. *Every person required to file any description or report or to certify any information therefor under this Act shall maintain records on the matters of which disclosure is required which will provide in sufficient detail the necessary basic information and data from which the documents thus required may be verified, explained, or clarified, and checked for accuracy and completeness, and shall include vouchers, worksheets, receipts, and applicable resolutions, and shall keep such records available for examination for a period of not less than five years after the filing of the documents based on the information which they contain.*

## RELIANCE ON ADMINISTRATIVE INTERPRETATIONS AND FORMS

Sec. 12. *In any action or proceeding based on any act or omission in alleged violation of this Act, no person shall be subject to any liability or punishment for or on account of the failure of such person to (1) comply with any provision of this Act if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Secretary, or (2) publish and file any information required by any provision of this Act if he pleads and proves that he published and filed such information in good faith, on the description and annual report forms prepared by the Secretary and in conformity with the instructions of the Secretary issued under this Act regarding the filing of such forms. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that (A) after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect, or (B) after publishing or filing the description and annual reports, such publication or filing is determined by judicial authority not to be in conformity with the requirements of this Act.*

## BONDING

Sec. 13. (a) *Every administrator, officer, and employee of any employee welfare benefit plan or of any employee pension benefit plan subject to this Act who handles funds or other property of such plan shall be bonded as herein provided; except that, where such plan is one under which the only assets from which benefits are paid are the general assets of a union or of an employer, the administrator, officers and employees of such plan shall be exempt from the bonding requirements of this section. The amount of such bond shall be fixed at the beginning of each calendar, policy, or other fiscal year, as the case may be, which constitutes the reporting year of such plan. Such amount shall not be less than 10 per centum of the amount of funds, handled, determined as herein provided, except that any such bond shall be in at least the amount of \$1,000 and no such bond shall be required in an amount in excess of \$500,000: Provided, That the Secretary, after due notice and opportunity for hearing to all interested parties, and after consideration of the record, may prescribe an amount in excess of \$500,000, which in no event shall exceed 10 per centum of the funds handled. For purposes of fixing the amount of such bond, the amount of funds handled shall be determined by the funds handled by the person, group, or class to be covered by such bond and by their predecessor or predecessors, if any, during the preceding reporting year, or if the plan has no preceding reporting year, the amount of funds to be handled during the current reporting year by such person, group, or class, estimated as provided in regulations of the Secretary. Such bond shall provide protection to the plan against loss by reason of acts of fraud or dishonesty on the part of such administrator, officer, or employee, directly or through connivance with others.*