

petent jurisdiction to recover damages or secure an accounting or other appropriate relief for the benefit of the labor organization. No such proceeding shall be brought except upon leave of the court obtained upon verified application and for good cause shown, which application may be made ex parte. The trial judge may allot a reasonable part of the recovery in any action under this subsection to pay the fees of counsel prosecuting the suit at the instance of the member of the labor organization and to compensate such member for any expenses necessarily paid or incurred by him in connection with the litigation.

(c) Embezzlement of assets; penalty

Any person who embezzles, steals, or unlawfully and willfully abstracts or converts to his own use, or the use of another, any of the moneys, funds, securities, property, or other assets of a labor organization of which he is an officer, or by which he is employed, directly or indirectly, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

(Pub. L. 86-257, title V, § 501, Sept. 14, 1959, 73 Stat. 535.)

§ 502. Bonding of officers and employees of labor organizations; amount, form, and placement of bonds; penalty for violation

(a) Every officer, agent, shop steward, or other representative or employee of any labor organization (other than a labor organization whose property and annual financial receipts do not exceed \$5,000 in value), or of a trust in which a labor organization is interested, who handles funds or other property thereof shall be bonded to provide protection against loss by reason of acts of fraud or dishonesty on his part directly or through connivance with others. The bond of each such person shall be fixed at the beginning of the organization's fiscal year and shall be in an amount not less than 10 per centum of the funds handled by him and his predecessor or predecessors, if any, during the preceding fiscal year, but in no case more than \$500,000. If the labor organization or the trust in which a labor organization is interested does not have a preceding fiscal year, the amount of the bond shall be, in the case of a local labor organization, not less than \$1,000, and in the case of any other labor organization or of a trust in which a labor organization is interested, not less than \$10,000. Such bonds shall be individual or schedule in form, and shall have a corporate surety company as surety thereon. Any person who is not covered by such bonds shall not be permitted to receive, handle, disburse, or otherwise exercise custody or control of the funds or other property of a labor organization or of a trust in which a labor organization is interested. No such bond shall be placed through an agent or broker or with a surety company in which any labor organization or any officer, agent, shop steward, or other representative of a labor organization has any direct or indirect interest. Such surety company shall be a corporate surety which holds a grant of authority from the Secretary of the Treasury under sections 9304-9308 of title 31, as an acceptable surety on Federal bonds: *Provided*,

That when in the opinion of the Secretary a labor organization has made other bonding arrangements which would provide the protection required by this section at comparable cost or less, he may exempt such labor organization from placing a bond through a surety company holding such grant of authority.

(b) Any person who willfully violates this section shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(Pub. L. 86-257, title V, § 502, Sept. 14, 1959, 73 Stat. 536; Pub. L. 89-216, § 1, Sept. 29, 1965, 79 Stat. 888.)

CODIFICATION

In subsec. (a), "sections 9304-9308 of title 31" substituted for "the Act of July 30, 1947 (6 U.S.C. 6-13)" on authority of Pub. L. 97-258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1965—Subsec. (a). Pub. L. 89-216 substituted "to provide protection against loss by reason of act of fraud or dishonesty on his part directly or through connivance with others" for "for the faithful discharge of his duties" in first sentence and inserted proviso allowing Secretary to permit other arrangements to provide necessary protection.

§ 503. Financial transactions between labor organization and officers and employees

(a) Direct and indirect loans

No labor organization shall make directly or indirectly any loan or loans to any officer or employee of such organization which results in a total indebtedness on the part of such officer or employee to the labor organization in excess of \$2,000.

(b) Direct or indirect payment of fines

No labor organization or employer shall directly or indirectly pay the fine of any officer or employee convicted of any willful violation of this chapter.

(c) Penalty for violations

Any person who willfully violates this section shall be fined not more than \$5,000 or imprisoned for not more than one year, or both.

(Pub. L. 86-257, title V, § 503, Sept. 14, 1959, 73 Stat. 536.)

§ 504. Prohibition against certain persons holding office

(a) Membership in Communist Party; persons convicted of robbery, bribery, etc.

No person who is or has been a member of the Communist Party or who has been convicted of, or served any part of a prison term resulting from his conviction of, robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, or a violation of subchapter III or IV of this chapter¹ any felony involving abuse or misuse of such person's position or employment in a labor organization or employee benefit plan to seek or obtain an ille-

¹ So in original. Probably should be followed by a comma.

gal gain at the expense of the members of the labor organization or the beneficiaries of the employee benefit plan, or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve—

(1) as a consultant or adviser to any labor organization,

(2) as an officer, director, trustee, member of any executive board or similar governing body, business agent, manager, organizer, employee, or representative in any capacity of any labor organization,

(3) as a labor relations consultant or adviser to a person engaged in an industry or activity affecting commerce, or as an officer, director, agent, or employee of any group or association of employers dealing with any labor organization, or in a position having specific collective bargaining authority or direct responsibility in the area of labor-management relations in any corporation or association engaged in an industry or activity affecting commerce, or

(4) in a position which entitles its occupant to a share of the proceeds of, or as an officer or executive or administrative employee of, any entity whose activities are in whole or substantial part devoted to providing goods or services to any labor organization, or

(5) in any capacity, other than in his capacity as a member of such labor organization, that involves decisionmaking authority concerning, or decisionmaking authority over, or custody of, or control of the moneys, funds, assets, or property of any labor organization,

during or for the period of thirteen years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least three years after such conviction or after the end of such imprisonment, whichever is later, or unless prior to the end of such period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) if the offense is a Federal offense, the sentencing judge or, if the offense is a State or local offense, the United States district court for the district in which the offense was committed, pursuant to sentencing guidelines and policy statements under section 994(a) of title 28, determines that such person's service in any capacity referred to in clauses (1) through (5) would not be contrary to the purposes of this chapter. Prior to making any such determination the court shall hold a hearing and shall give notice of such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The court's determination in any such proceeding shall be final. No person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this subsection.

(b) Penalty for violations

Any person who willfully violates this section shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

(c) Definitions

For the purpose of this section—

(1) A person shall be deemed to have been “convicted” and under the disability of “conviction” from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

(2) A period of parole shall not be considered as part of a period of imprisonment.

(d) Salary of person barred from labor organization office during appeal of conviction

Whenever any person—

(1) by operation of this section, has been barred from office or other position in a labor organization as a result of a conviction, and

(2) has filed an appeal of that conviction,

any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual employer or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of such person's conviction on appeal, the amounts in escrow shall be returned to the individual employer or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute² from assuming any position from which such person was previously barred.

(Pub. L. 86-257, title V, §504, Sept. 14, 1959, 73 Stat. 536; Pub. L. 98-473, title II, §§229, 803, Oct. 12, 1984, 98 Stat. 2031, 2133; Pub. L. 100-182, §15(a), Dec. 7, 1987, 101 Stat. 1269.)

CONSTITUTIONALITY

For information regarding constitutionality of certain provisions of section 504 of Pub. L. 86-257, see Congressional Research Service, *The Constitution of the United States of America: Analysis and Interpretation*, Appendix 1, *Acts of Congress Held Unconstitutional in Whole or in Part by the Supreme Court of the United States*.

AMENDMENTS

1987—Subsec. (a). Pub. L. 100-182, in concluding provisions, substituted “if the offense is a Federal offense, the sentencing judge or, if the offense is a State or local offense, the United States district court for the district in which the offense was committed, pursuant to sentencing guidelines and policy statements under section 994(a) of title 28,” for “the United States Parole Commission”, “court” and “court’s” for “Commission” and “Commission’s”, respectively, and “a hearing” for “an administrative hearing”.

1984—Subsec. (a). Pub. L. 98-473, §229, which directed substitution of “if the offense is a Federal offense, the sentencing judge or, if the offense is a State or local offense, on motion of the United States Department of Justice, the district court of the United States for the district in which the offense was committed, pursuant to sentencing guidelines and policy statements issued pursuant to section 994(a) of title 28,” for “the Board of Parole of the United States Justice Department”, “court” and “court’s” for “Board” and “Board’s”, re-

² So in original. Probably should be “section”.

spectively, and “a” for “an administrative”, was (except for the last substitution) incapable of execution in view of the previous amendment by section 803(a) of Pub. L. 98-473 which became effective prior to the effective date of the amendment by section 229. See note below.

Pub. L. 98-473, §803(a), in amending provisions after “or a violation of subchapter III or IV of the chapter” generally, inserted provisions relating to abuse or misuse of employment in a labor organization or employee benefit plan, substituted “conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element” for “conspiracy to commit any such crimes”, added par. (1), redesignated former par. (1) as (2) and in par. (2) as so redesignated substituted “employee, or representative in any capacity of any labor organization” for “or other employee (other than as an employee performing exclusively clerical or custodial duties) of any labor organization, or”, redesignated former par. (2) as (3) and in par. (3) as so redesignated inserted “or advisor” after “consultant”, struck out “(other than as an employee performing exclusively clerical or custodial duties)” after “employee”, and inserted “or in a position having specific collective bargaining authority or direct responsibility in the area of labor-management relations in any corporation or association engaged in an industry or activity affecting commerce, or”, added pars. (4) and (5), struck out “or for five years after the termination of his membership in the Communist Party,” substituted “the period of thirteen years” for “five years”, inserted “whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least three years after such conviction or after the end of such imprisonment, whichever is later, or”, substituted in cl. (B) “United States Parole Commission” for “Board of Parole of the United States Department of Justice”, and in the provisions following cl. (B) substituted “Commission” and “Commission’s” for “Board” and “Board’s”, respectively, inserted provision of notice to the Secretary of Labor, and substituted “No person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this subsection” for “No labor organization or officer thereof shall knowingly permit any person to assume or hold any office or paid position in violation of this subsection”.

Subsec. (b). Pub. L. 98-473, §803(b), amended subsec. (b) generally, substituting “five years” for “one year”.

Subsec. (c). Pub. L. 98-473, §803(c), designated existing provisions as par. (1), substituted provisions defining conviction as from date of judgment of trial court, regardless of appeal, for former provisions defining it as from date of judgment of trial court or date of final sustaining of judgment on appeal, whichever is later, regardless of whether such conviction occurred before or after Sept. 14, 1959, and added par. (2).

Subsec. (d). Pub. L. 98-473, §803(d), added subsec. (d).

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-182 applicable with respect to offenses committed after Dec. 7, 1987, see section 26 of Pub. L. 100-182, set out as a note under section 3006A of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 229 of Pub. L. 98-473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98-473, set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

Pub. L. 98-473, title II, §804, Oct. 12, 1984, 98 Stat. 2134, provided that:

“(a) The amendments made by section 802 [amending section 1111 of this title] and section 803 [amending this section] of this title shall take effect with respect to any judgment of conviction entered by the trial court

after the date of enactment of this title [Oct. 12, 1984], except that that portion of such amendments relating to the commencement of the period of disability shall apply to any judgment of conviction entered prior to the date of enactment of this title if a right of appeal or an appeal from such judgment is pending on the date of enactment of this title.

“(b) Subject to subsection (a) the amendments made by sections 803 and 804 [probably should be sections 802 and 803] shall not affect any disability under section 411 of the Employee Retirement Income Security Act of 1974 [section 1111 of this title] or under section 504 of the Labor-Management Reporting and Disclosure Act of 1959 [this section] in effect on the date of enactment of this title [Oct. 12, 1984].”

SUBCHAPTER VII—MISCELLANEOUS PROVISIONS

§521. Investigations by Secretary; applicability of other laws

(a) The Secretary shall have power when he believes it necessary in order to determine whether any person has violated or is about to violate any provision of this chapter (except subchapter II of this chapter) to make an investigation and in connection therewith he may enter such places and inspect such records and accounts and question such persons as he may deem necessary to enable him to determine the facts relative thereto. The Secretary may report to interested persons or officials concerning the facts required to be shown in any report required by this chapter and concerning the reasons for failure or refusal to file such a report or any other matter which he deems to be appropriate as a result of such an investigation.

(b) For the purpose of any investigation provided for in this chapter, the provisions of sections 49 and 50 of title 15 (relating to the attendance of witnesses and the production of books, papers, and documents), are made applicable to the jurisdiction, powers, and duties of the Secretary or any officers designated by him.

(Pub. L. 86-257, title VI, §601, Sept. 14, 1959, 73 Stat. 539.)

REFERENCES IN TEXT

The phrase “this chapter (except subchapter II of this chapter)”, referred to in subsec. (a), was in the original “this Act (except title I or amendments made by this Act to other statutes)”. “This chapter”, referred to later in subsec. (a) and also in subsec. (b), was in the original “this Act”. “This Act” is Pub. L. 86-257, Sept. 14, 1959, 73 Stat. 519, as amended, known as the Labor-Management Reporting and Disclosure Act of 1959, which enacted this chapter, amended sections 153, 158, 159, 160, 164, 186, and 187 of this title, and enacted provisions set out as notes under sections 153, 158, and 481 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

§522. Extortionate picketing; penalty for violation

(a) It shall be unlawful to carry on picketing on or about the premises of any employer for the purpose of, or as part of any conspiracy or in furtherance of any plan or purpose for, the personal profit or enrichment of any individual (except a bona fide increase in wages or other employee benefits) by taking or obtaining any money or other thing of value from such employer against his will or with his consent.