

ATTACHMENT E

Confidentiality Provisions, Title 13 USC Sec. 8 – 9

13 USC Sec. 8

01/05/99

TITLE 13 - CENSUS CHAPTER 1 - ADMINISTRATION SUBCHAPTER I - GENERAL PROVISIONS

Sec. 8. Authenticated transcripts or copies of certain returns; other data; restriction on use; disposition of fees received

(a) The Secretary may, upon written request, furnish to any respondent, or to the heir, successor, or authorized agent of such respondent, authenticated transcripts or copies of reports (or portions thereof) containing information furnished by, or on behalf of, such respondent in connection with the surveys and census provided for in this title, upon payment of the actual or estimated cost of searching the records and furnishing such transcripts or copies.

(b) Subject to the limitations contained in sections 6(c) and 9 of this title, the Secretary may furnish copies of tabulations and other statistical materials which do not disclose the information reported by, or on behalf of, any particular respondent, and may make special statistical compilations and surveys, for departments, agencies, and establishments of the Federal Government, the government of the District of Columbia, the government of any possession or area (including political subdivisions thereof) referred to in section 191(a) of this title, State or local agencies, or other public and private persons and agencies, upon payment of the actual or estimated cost of such work. In the case of nonprofit agencies or organizations, the Secretary may engage in joint statistical projects, the purpose of which are otherwise authorized by law, but only if the cost of such projects are shared equitably, as determined by the Secretary.

(c) In no case shall information furnished under this section be used to the detriment of any respondent or other person to whom such information relates, except in the prosecution of alleged violations of this title.

(d) All moneys received in payment for work or services enumerated under this section shall be deposited in a separate account which may be used to pay directly the costs of such work or services, to repay appropriations which initially bore all or part of such costs, or to refund excess sums when necessary.

(Aug. 31, 1954, ch. 1158, 68 Stat. 1013; Pub. L. 85-207, Sec. 4, Aug. 28, 1957, 71 Stat. 481; Pub. L. 94-521, Sec. 6(a), Oct. 17, 1976, 90 Stat. 2460.)

HISTORICAL AND REVISION NOTES

Based on title 13, U.S.C., 1952 ed., Sec. 218, and section 1442 of title 42, U.S.C., 1952 ed., The Public Health and Welfare (June 18, 1929, ch. 28, Sec. 18, 46 Stat. 25; July 15, 1949, ch. 338, title VI, Sec. 607, 63 Stat. 441).

Section consolidates section 218 of title 13, U.S.C., 1952 ed., with that part of subsection (b) of section

1442 of title 42, U.S.C., 1952 ed., which made such section 218 applicable to the censuses of housing. For remainder of such section 1442 of title 42 (which has been transferred in its entirety to this revised title), see Distribution Table.

References to the Secretary, meaning the Secretary of Commerce, were substituted for references to the Director of the Census, to conform with 1950 Reorganization Plan No. 5, Sec. 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263. See Revision Note to section 4 of this title. For the same reason, a reference in section 218 of title 13, U.S.C., 1952 ed., to the Bureau of the Census was changed, in subsection (e) of this revised section to "Department of Commerce or any bureau or agency thereof". Changes were made in phraseology and arrangement.

AMENDMENTS

1976 - Pub. L. 94-521 substituted "Authenticated transcripts or copies" for "Certified copies" in section catchline.

Subsec. (a). Pub. L. 94-521 substituted provision that the Secretary may furnish to any respondent, or the successor or authorized agent of such respondent, transcripts or copies of reports containing information furnished in connection with the surveys and census, upon payment of the necessary costs, for provision that authorized the Secretary, in his discretion, to furnish the Governors of States and Territories, courts of record, and individuals, data for genealogical and other proper purposes, from the population, agriculture, and housing schedules prepared under the authority of subchapter II of chapter 5 of this title, upon payment of the necessary costs, plus one dollar for supplying a certificate.

Subsec. (b). Pub. L. 94-521 inserted provision subjecting the Secretary to the limitations contained in sections 6(c) and 9 of this title, when furnishing statistical materials under this section, substituted "copies of tabulations and other statistical materials" for "transcripts or copies of tables and other census records", inserted provision that materials furnished under this section may not disclose information reported by, or on behalf of, a particular respondent, and substituted a provision enumerating the public and private establishments and individuals, on behalf of whom, special statistical compilations may be conducted for provision that such compilations may be conducted on behalf of State or local officials, private concerns, or individuals.

Subsec. (c). Pub. L. 94-521 struck out "the authority of" after "furnished under", substituted "any respondent or other person" for "the persons", and inserted "except in the prosecution of alleged violations of this title" after "relates,".

1957 - Subsec. (b). Pub. L. 85-207, Sec. 4(a), inserted sentence at end respecting engagement in joint statistical projects.

Subsec. (d). Pub. L. 85-207, Sec. 4(b), required the deposit in a separate account of moneys received in payment for work or services, previously credited to an appropriation for collecting statistics, and permitted certain uses of such account.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-521 effective Oct. 17, 1976, see section 17 of Pub. L. 94-521, set out as a note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9 of this title; title 5 section 552a; title 8 sections 1255a, 1367.

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TITLE 13 - CENSUS CHAPTER 1 - ADMINISTRATION SUBCHAPTER I - GENERAL PROVISIONS

Sec. 9. Information as confidential; exception

(a) Neither the Secretary, nor any other officer or employee of the Department of Commerce or bureau or agency thereof, or local government census liaison, may, except as provided in section 8 or 16 or chapter 10 of this title or section 210 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 or section 2(f) of the Census of Agriculture Act of 1997 -

(1) use the information furnished under the provisions of this title for any purpose other than the statistical purposes for which it is supplied; or

(2) make any publication whereby the data furnished by any particular establishment or individual under this title can be identified; or

(3) permit anyone other than the sworn officers and employees of the Department or bureau or agency thereof to examine the individual reports.

No department, bureau, agency, officer, or employee of the Government, except the Secretary in carrying out the purposes of this title, shall require, for any reason, copies of census reports which have been retained by any such establishment or individual. Copies of census reports which have been so retained shall be immune from legal process, and shall not, without the consent of the individual or establishment concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

(b) The provisions of subsection (a) of this section relating to the confidential treatment of data for particular individuals and establishments, shall not apply to the censuses of governments provided for by subchapter III of chapter 5 of this title, nor to interim current data provided for by subchapter IV of chapter 5 of this title as to the subjects covered by censuses of governments, with respect to any information obtained therefor that is compiled from, or customarily provided in, public records.

(Aug. 31, 1954, ch. 1158, 68 Stat. 1013; Pub. L. 87-813, Oct. 15, 1962, 76 Stat. 922; Pub. L. 101-533, Sec. 5(b)(2), Nov. 7, 1990, 104 Stat. 2348; Pub. L. 103-430, Sec. 2(b), Oct. 31, 1994, 108 Stat. 4394; Pub. L. 105-113, Sec. 4(a)(1), Nov. 21, 1997, 111 Stat. 2276; Pub. L. 105-119, title II, Sec. 210(k), Nov. 26, 1997, 111 Stat. 2487.)

HISTORICAL AND REVISION NOTES

Based on title 13, U.S.C., 1952 ed., Sec. 73, 83, 122, 208, 211, 252, and section 1442 of title 42, U.S.C., 1952 ed., The Public Health and Welfare (Aug. 7, 1916, ch. 274, Sec. 3, 39 Stat. 437; Apr. 2, 1924, ch. 80, Sec. 3, 43 Stat. 31; June 18, 1929, ch. 28, Sec. 8, 11, 21, 46 Stat. 23, 25, 26; July 25, 1947, ch. 331, 61 Stat. 457; June 19, 1948, ch. 502, Sec. 2, 62 Stat. 479; July 15, 1949, ch. 338, title VI, Sec. 607, 63 Stat. 441; Sept. 7, 1950, ch. 910, Sec. 2, 64 Stat. 784). Section consolidates parts of sections 73 and 83 of title 13, U.S.C., 1952 ed., part of section 208 of such title, section 211 of such title, that part of section 122 of such title which made such sections 208 and 211 applicable to the quinquennial censuses of manufacturers, the mineral industries, and other businesses (see subchapter I of chapter 5 of this revised title), that part of section 252 of such title which made such sections 208 and 211 applicable to the quinquennial censuses of governments (see subchapter III of chapter 5 of this revised title), the second proviso in such section 252, and that part of subsection (b) of section 1442 of title 42, U.S.C., 1952 ed., which made such sections 208 and 211 applicable to the decennial censuses of housing (see subchapter II of chapter 5 of this revised title). Words "except as provided in section 8 of this title" were inserted in opening phrase of subsection (a) for the purpose of clarity.

References to the Secretary, the Department of Commerce and bureaus and agencies thereof, and to other officers and employees of such Department, bureaus or agencies, were substituted for references to the Director of the Census, the "Census Office", and the enumeration (in section 208 of title 13, U.S.C., 1952 ed.) of certain types of employees, for the purpose of completeness, and to conform with 1950 Reorganization Plan No. 5, Sec. 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263. See Revision Note to section 4 of this title.

The penal provisions of sections 73, 83, and 208 of title 13, U.S.C., 1952 ed., prescribing penalties for

wrongful disclosure of information, are set out in section 214 of this title. Changes were made in phraseology.

For remainder of sections 122, 208, and 252 of title 13, U.S.C., 1952 ed., and of section 1442 of title 42, U.S.C., 1952 ed. (which section has been transferred in its entirety to this revised title), see Distribution Table.

REFERENCES IN TEXT

Section 210 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998, referred to in subsec. (a), is section 210 of Pub. L. 105-119, title II, Nov. 26, 1997, 111 Stat. 2483, which amended this section and enacted provisions set out as a note under section 141 of this title.

Section 2(f) of the Census of Agriculture Act of 1997, referred to in subsec. (a), is classified to section 2204g(f) of Title 7, Agriculture.

AMENDMENTS

1997 - Subsec. (a). Pub. L. 105-119, which directed the substitution, in introductory provisions, of "of this title or section 210 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 - " for "of this title - ", was executed by substituting "of this title or section 210 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998" for "of this title" to reflect the probable intent of Congress and the amendment by Pub. L. 105-113. See below. Pub. L. 105-113 inserted "or section 2(f) of the Census of Agriculture Act of 1997" after "chapter 10 of this title". 1994 - Subsec. (a). Pub. L. 103-430 inserted "or local government census liaison," after "thereof," and "or 16" after "section 8".

1990 - Subsec. (a). Pub. L. 101-533 inserted "or chapter 10" after "section 8".

1962 - Subsec. (a). Pub. L. 87-813 inserted sentences stating that no department, bureau, agency, officer, or employee of the Government, except the Secretary in carrying out the purposes of this title, shall require, for any reason, copies of census reports which have been retained by any such establishment or individual, and providing that copies of census reports which have been so retained shall be immune from legal process, and shall not, without the consent of the individual or establishment, be admitted as evidence or used for any purpose in any action, suit or other judicial or administrative proceeding.

CROSS REFERENCES

Punishment for wrongfully publishing or communicating information, see section 1905 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8, 23, 214 of this title; title 7 section 2204g; title 22 section 3144; title 42 sections 1973aa-5, 2000f, 6274, 11608; title 50 App. section 2411.