# **How to Compile a Federal Legislative History**

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Sue Ann Orsini
Legislative Librarian
Fried, Frank, Harris, Shriver & Jacobson, LLP
<u>sueann.orsini@friedfrank.com</u>
w.202-639-7365

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# Introduction.

There are many ways to begin a legislative history, depending on what information you are given at the start. Yet, no matter what, in order to find all the necessary pieces of legislative information, you need to find the Public Law No., Bill No., or Statutes at Large citation. No way around it.

The differences/difficulties in locating legislative information depend on when the law about which you are researching was enacted. Post-1994, the research is fairly easy and most of it can be accomplished using free sources such as FDSys and Congress.gov. Pre-1994 legislative histories are harder and involve a wider variety of resources. I use Heinonline's libraries most often, but you can also access USCCAN (print and on Westlaw), the GAO legislative histories in Westlaw, or ProQuest Congressional. You can use other databases such as CQ.com, Bloomberg Government or Federal News Service (FNS) to supplement. Finally, you can also check the LLSDC Union List to see about the possibility of borrowing older, already compiled print histories.

This Presentation and Guide will focus on compiling legislative histories post-1994. Please do not hesitate to contact me with questions.

### Overview of the elements of a legislative history - and how to locate them.

- 1. <u>Bill Text</u>. Post-1993 (103rd Congress), use FDSys. Presently, Congress.gov also provides coverage back to the 103rd Congress with plans to continue adding materials backwards. You can look up the status of legislation at THOMAS going back to 1973 (93rd Congress), but there will be no bill text. Lexis and Westlaw only cover bill text back to 1995 (104th Congress). Prior to 1993, Senate bills can sometimes be found printed in the Congressional Record on the day they were introduced. Both House and Senate bills are also sometimes printed in Hearing records.
- <u>Reports.</u> Post-1995 (104th Congress), use FDSys. Pre-1995, use USCCAN. There is a gray period between 1970 and 1990 where, depending on where you work, all reports are not available electronically. Some libraries may have access to the full Serial Set in Lexis (academic and some government). Otherwise, reports are available in Westlaw (USCCAN-REP) back to 1990 (101st Congress, 2d Session) and in Lexis (CMTRPT)

back to 1990 (spotty coverage from 1990-1993,  $101^{st}$  and  $102^{nd}$  Congresses). All pre-1970 reports are available through ProQuest Congressional. If a report printed between 1970 and 1990 was not associated with a public law, and you do not have access to the Serial Set, then you will only be able to access the report if it was included in a GAO legislative history or other print legislative history, or if someone happens to have it, or from the Library of Congress.

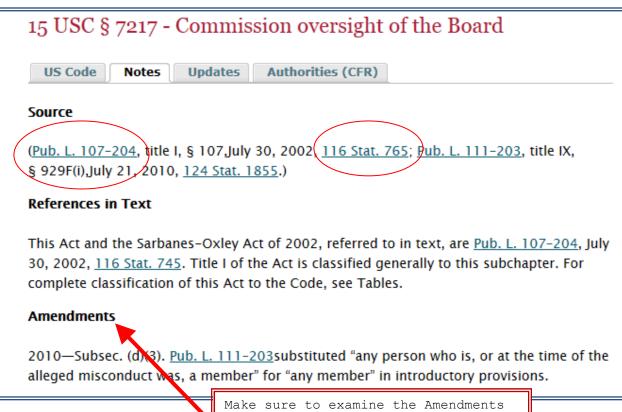
- 3. <u>Hearings/Committee Materials</u>. Post-1995 (104th Congress), use FDSys or the Committee's website. Pre-1995, other sources for hearing records include already compiled legislative histories (print, Westlaw's GAO database, Heinonline) and ProQuest Congressional. Other subscription sites such as Federal News Service (FNS), CQ.com and Bloomberg Government provide transcripts of more recent hearings, usually back to 2000. CQ.com and Bloomberg Government provide mark-up reports. Westlaw and Lexis contain Congressional Testimony databases, but no database devoted solely to Hearing transcripts/records. Print hearing records are available at the Library of Congress.
- 4. <u>Debate</u>. Post-1994 (103rd Congress, 2d Session), use FDSys for the Daily Record. Lexis and Westlaw have the daily Congressional Record back to 1985 (99th Congress). Heinonline has the entirety of Congressional debate back to the first Congress in their US Congressional Documents database, including the Congressional Record in both the Bound and Daily versions. ProQuest Congressional also provides access to the Bound and Daily versions of the Record.
- 5. <u>Miscellaneous Materials</u>. There are a lot of additional materials that can supplement a legislative history. I will not discuss these in detail today, but they are worth mentioning.
  - Presidential Signing Statements
  - o Statements of Administration Policy (SAP)
  - o GAO Reports
  - o CRS Reports
  - o Regulatory Actions (Proposing and Adopting releases)
  - Other Agency materials

#### Six Major Access Points for Legislative History Research

- 1. US Code Citation.
- 2. Law Section.
- 3. Name of Act.
- 4. Public Law Number.
- 5. Bill Number.
- 6. Statutes at Large Citation.

## **Examples for Discussion:**

- 1. <u>US Code citation</u> Look in the Notes section for the law that amended/added the language in which you're interested. If the Public Law is recent (post-1994) then use Congress.gov to look it up. If it is older (pre-1994), find the bill number of the enacted bill and a shortened legislative history list of reports and debate dates (post-1975). You can also use the bill number to search for Congressional Record entries using the "History of Bills and Resolution" index in the Bound Congressional Record.
  - EX: 15 USC 7217, Commission Oversight of the Board.
    - o Sarbanes Oxley, PL107-204, Section 107
  - <u>Step 1</u>. Go to the <u>US Code</u>. There are a few places you could go, depending on your available resources and time.
    - Step 1a. Look up the provision in the Code Annotated on Westlaw or Lexis. This will provide you with corresponding regulations, law reviews, cases and also links to some legislative history materials.
    - Step 1b. Go to the Code on FDSys, Cornell LII or the LRC website so you can read the Source Notes. <a href="http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title15-section7217&num=0&edition=prelim">http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title15-section7217&num=0&edition=prelim</a>



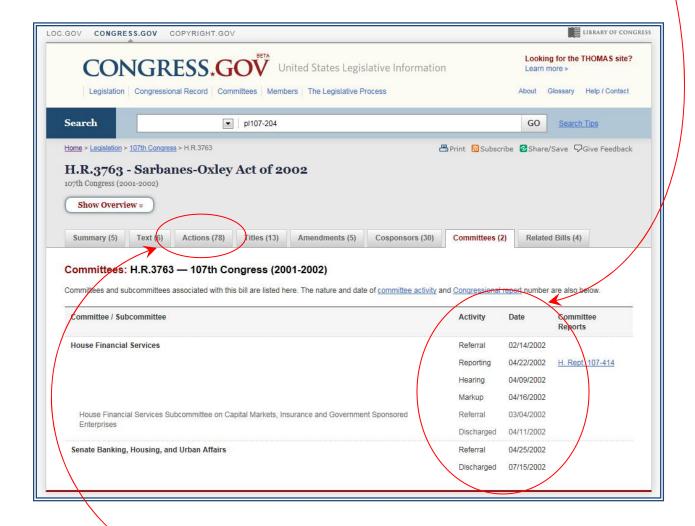
section to see if the provision in which you are most interested has been amended since enactment.

• Step 2. Find the appropriate database to search. Armed with both the Public Law Number (PL107-204) and also the Stat citation (116 Stat. 765), you then choose where to go next. Since this law was originally enacted post-1995 (in 2003), you can look it up in either Congress.gov or FDSys for free.



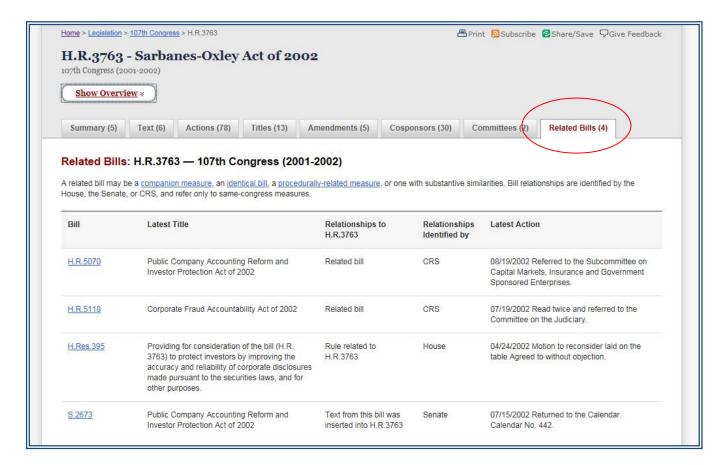
• <u>Step 3. Finding Hearing materials</u>. To locate hearing materials, you can look at the chronology information on Congress.gov under the "Committees" tab and then go straight to the relevant Committee website to pull information.

[NOTE: Other places to look for hearing materials include FDSys's hearing database for complete hearing records and Congressional Quarterly Transcripts, FNS or Bloomberg Government for mark-up reports, transcripts and sometimes a more detailed bill chronology (CQ.com and BGov).]



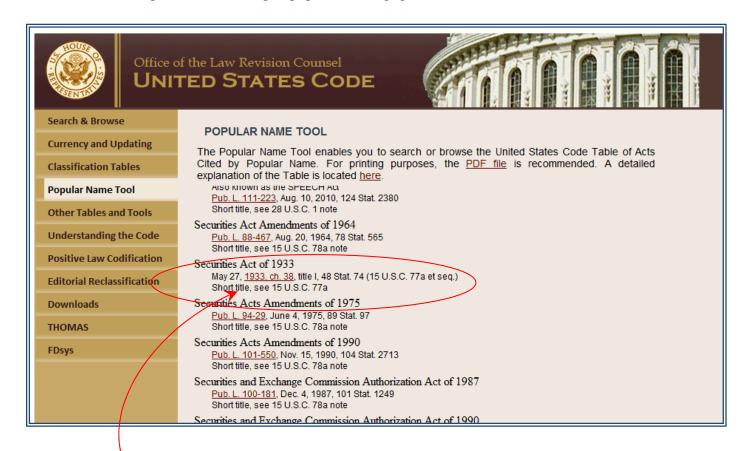
• <u>Step 4. Finding Debate materials</u>. Congress.gov will provide links to the Daily Congressional Record debates under the "Actions" tab. These links take you straight into FDSys.

• <u>Step 5</u>. Related Bills and Reports. Very often, a bill will be introduced with a companion bill that is also debated, considered by Committee, reported, and even included into the final enacted bill. Congress.gov now includes a "Related Bills" tab that will help you find materials on these bills.



- <u>Step 6. Locate Miscellaneous Materials</u>. These include Presidential Signing Statements, Statements of Administration Policy (SAPs), CRS Reports, GAO Reports, and other Administrative materials.
  - o FDSys
  - White House website
  - o GAO Website
  - o CQ.com or Penny Hill Press

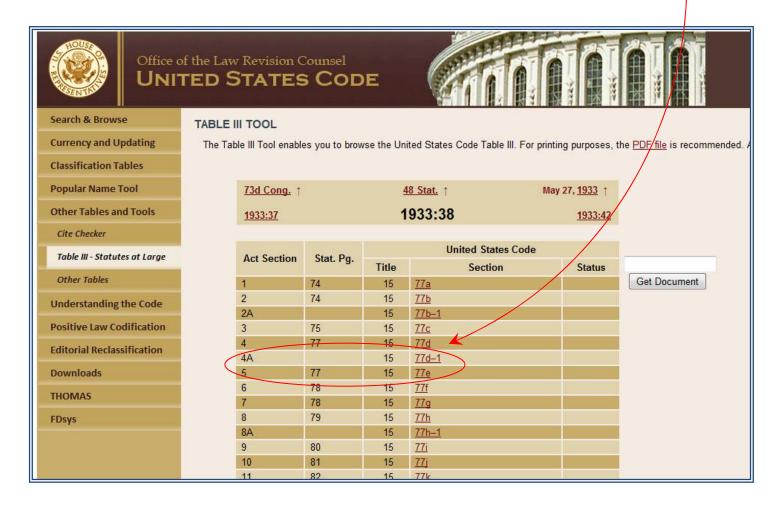
- 2. <u>Law section/Name of Act</u> This happens a lot with the Securities laws, for instance. I tend to find that lawyers who work in practice areas governed by a specific set of laws often refer to those Acts by name rather than by their US Code sections. You may get a question such as: "Please pull the legislative history for Section 4A of the 33 Act." You still need to find the Public Law No., however, in order to locate the enacted bill number and other pieces of legislative history. There are a few ways to find the law number using a section of that law. My favorite is a combination of the Popular Name Tool and the Classification Tables appended to the US Code. You can access these in print using the USCA (Westlaw) or online via the Law Revision Counsel's website or Cornell's LII. The online Popular Name Tool on the Law Revision Counsel's website provides links to the appropriate Classification Table, which will give both Statutes at Large citations and US Code citations.
  - EX: Section 4A of the Securities Act of 1933
    - o 15 USC 77d-1
  - <u>Step 1</u>. Go to the Popular Name Tool. http://uscode.house.gov/popularnames/popularnames.htm



• <u>Step 2</u>. Locate the Securities Act of 1933. Note the link that will take you directly to the Classification Tables. http://uscode.house.gov/table3/1933 38.htm

• <u>Step 3</u>. Scroll down in the Classification Tables until you find Section 4A. This shows you that Section 4A of the Securities Act of 1933 is located at 15 USC 77d-1. There is also a link to the Code.

http://uscodebeta.house.gov/view.xhtml?req=granuleid:USC-prelim-title15-section77d-1&num=0&edition=prelim



- <u>Step 4</u>. Go to the US Code Section and examine the Notes at the end. This will tell you that 77d-1 originated in Pub. L. No. 112-106, Title III, §302(b), Apr. 5, 2012, 126 Stat. 315.
- <u>Step 5</u>. From this point, you can go to a couple of sources depending on where you like to search and what resources you have available to you.
  - Step 5a. Use Congress.gov to pull up the Public Law and you will have everything you need – reports, debate, Committee actions, bill versions and related bills.
  - Step 5b. Use Westlaw/Lexis to pull up the annotated version of the Code section. This will provide you with links to law reviews, any regulations, and

- additional materials that Westlaw/Lexis would make available on the right and left sides of the page.
- o <u>Step 5c. Use CQ.com</u> to look up the Public Law number and see a more detailed chronology for the bill, including mark-up and hearing information.
- <u>Step 6</u>. Once you have the public law number and it is post-1994, you can follow the steps outlined in Example #1 above.
- 3. <u>Public Law Number/Bill Number</u> Sometimes, you may be asked about a bill or law number. This, of course, is one of the easiest ways to get into legislative history materials. If it is a recent bill or law (post-1994), use FDSys or Congress.gov (THOMAS) to look it up. If it is an older bill (pre-1994) look up that bill number in the Congressional Record index in the Bound Record in order to find the debate and any report numbers. Also, the old THOMAS site still includes bill status and summary information for Public Laws going back to the 93<sup>rd</sup> Congress (1973). Although this will not give you links to the documents themselves, it is an invaluable way to find bill numbers, dates of debate, report numbers and likely Committee activity.

[NOTE: Do not focus solely on bill numbers, even when they are given to you. It is highly likely that the relevant issues in the bill also popped up in other pieces of legislation during the same or previous sessions. Any other bills could be relevant as well, even if they are just used for comparison purposes. Focusing on the ISSUE in the bill is very important for current legislative tracking].

• EX: HR. 3204, 113th Congress

• EX: HR. 3107, 104th Congress (ILSA)

• EX: PL 106-554

4. <u>Statutes at Large Citation</u>. This is the most infrequent access point to legislative history research and you are likely to never get just the Stat citation. Usually it will be found in conjunction with a Public Law number or the name of an Act. If you are given a Stat citation by itself, however, you can use the print Classification Tables at the end of the USCA (all volumes), Heinonline's Statutes at Large database (all volumes), FDSys Search (just type in the citation) or Citation Search (vols. 65-117), ProQuest Congressional (all volumes), or Westlaw (vols. 1-86).

• EX. 126 Stat. 315

• <u>Step 1</u>. If you do not have access to the print Classification tables and since this Stat citation is outside FDSys's citation search function, I would simply type the citation into FDSys's simple search box on their homepage. The search results will pull up the Public Law associated with the Stat citation.



• <u>Step 2</u>. Refer to the steps under Example #2 above to find all the legislative information associated with the Public Law. (In this case PL112-106).

#### Helpful Sites/Links.

- THOMAS: http://thomas.loc.gov/home/thomas.php (to be discontinued in 2014).
- Congress.gov http://www.beta.congres.gov
- FDSys <a href="http://www.gpo.gov/fdsys/">http://www.gpo.gov/fdsys/</a> or <a href="http://www.fdsys.gov">http://www.fdsys.gov</a>
- Law Revision Counsel <a href="http://uscode.house.gov/browse.xhtml">http://uscode.house.gov/browse.xhtml</a>
- Cornell's LII http://www.law.cornell.edu/
- LLSDC's Legislative Sourcebook http://www.llsdc.org/sourcebook
- LLSDC's Union List Information http://www.llsdc.org/union-list-information