

Calendar No. 491

104TH CONGRESS
2^D SESSION

S. 483

[Report No. 104-315]

A BILL

To amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes.

JULY 10, 1996

Reported with an amendment

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IN THE SENATE OF THE UNITED STATES

MARCH 2 (legislative day, FEBRUARY 22), 1995

Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. THOMPSON, Mr. SIMPSON, Mrs. BOXER, Mr. ABRAHAM, Mr. HEFLIN, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

JULY 10, 1996

Reported by Mr. HATCH, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]**A BILL**

To amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Copyright Term Ex-
3 tension Act of 1995”.

4 **SEC. 2. DURATION OF COPYRIGHT PROVISIONS.**

5 (a) **PREEMPTION WITH RESPECT TO OTHER**
6 **LAWS.**—Section 301(c) of title 17, United States Code,
7 is amended by striking out “February 15, 2047” in each
8 place it appears and inserting “February 15, 2067” in
9 each such place.

10 (b) **DURATION OF COPYRIGHT: WORKS CREATED ON**
11 **OR AFTER JANUARY 1, 1978.**—Section 302 of title 17,
12 United States Code, is amended—

13 (1) in subsection (a) by striking out “fifty” and
14 inserting in lieu thereof “seventy”;

15 (2) in subsection (b) by striking out “fifty” and
16 inserting in lieu thereof “seventy”;

17 (3) in subsection (c) in the first sentence—

18 (A) by striking out “seventy-five” and in-
19 serting in lieu thereof “ninety-five”; and

20 (B) by striking out “one hundred” and in-
21 serting in lieu thereof “one hundred and twen-
22 ty”; and

23 (4) in subsection (e) in the first sentence—

24 (A) by striking out “seventy-five” and in-
25 serting in lieu thereof “ninety-five”;

1 (B) by striking out “one hundred” and in-
2 serting in lieu thereof “one hundred and twen-
3 ty”; and

4 (C) by striking out “fifty” in each place it
5 appears and inserting “seventy” in each such
6 place.

7 (e) DURATION OF COPYRIGHT: WORKS CREATED
8 BUT NOT PUBLISHED OR COPYRIGHTED BEFORE JANU-
9 ARY 1, 1978.—Section 303 of title 17, United States
10 Code, is amended in the second sentence—

11 (1) by striking out “December 31, 2002” in
12 each place it appears and inserting “December 31,
13 2012” in each such place; and

14 (2) by striking out “December 31, 2027” and
15 inserting in lieu thereof “December 31, 2047”.

16 (d) DURATION OF COPYRIGHT: SUBSISTING COPY-
17 RIGHTS.—

18 (1) Section 304 of title 17, United States Code,
19 is amended—

20 (A) in subsection (a)—

21 (i) in paragraph (1)—

22 (I) in subparagraph (B) by strik-
23 ing out “47” and inserting in lieu
24 thereof “67”; and

1 (H) in subparagraph (C) by
2 striking out “47” and inserting in lieu
3 thereof “67”;

4 (ii) in paragraph (2)—

5 (I) in subparagraph (A) by strik-
6 ing out “47” and inserting in lieu
7 thereof “67”; and

8 (H) in subparagraph (B) by
9 striking out “47 and inserting in lieu
10 thereof “67”; and

11 (iii) in paragraph (3)—

12 (I) in subparagraph (A)(i) by
13 striking out “47” and inserting in lieu
14 thereof “67”; and

15 (H) in subparagraph (B) by
16 striking out “47” and inserting in lieu
17 thereof “67”; and

18 (B) in subsection (b) by striking out “sev-
19 enty-five” and inserting in lieu thereof “ninety-
20 five”.

21 (2) Section 102 of the Copyright Renewal Act
22 of 1992 (Public Law 102-307; 106 Stat. 266; 17
23 U.S.C. 304 note) is amended—

24 (A) in subsection (c)—

1 (i) by striking out “47” and inserting
2 in lieu thereof “67”;

3 (ii) by striking out “(as amended by
4 subsection (a) of this section)”;

5 (iii) by striking out “effective date of
6 this section” each place it appears and in-
7 serting in each such place “effective date
8 of the Copyright Term Extension Act of
9 1995”; and

10 (B) in subsection (g)(2) in the second sen-
11 tence by inserting before the period the follow-
12 ing: “, except each reference to forty-seven
13 years in such provisions shall be deemed to be
14 sixty-seven years”.

15 **SEC. 3. EFFECTIVE DATE.**

16 This Act and the amendments made by this Act shall
17 take effect on the date of the enactment of this Act.

18 **SECTION 1. SHORT TITLE.**

19 *This Act may be cited as the “Copyright Term*
20 *Extension Act of 1996”.*

21 **SEC. 2. DURATION OF COPYRIGHT PROVISIONS.**

22 (a) *CLARIFICATION OF LIBRARY EXEMPTION OF*
23 *EXCLUSIVE RIGHTS.—*

24 *Section 108 of title 17, United States Code, is amend-*
25 *ed—*

1 (1) *by redesignating subsection (h) as subsection*
2 *(i); and*

3 (2) *by inserting after subsection (g) the*
4 *following:*

5 “(h)(1) *Notwithstanding any other limitation in this*
6 *title, for purposes of this section, during the last 20 years*
7 *of any term of a copyright of a published work, a library,*
8 *archives, or nonprofit educational institution may repro-*
9 *duce or distribute a copy or a phonorecord of such work,*
10 *or portions thereof, for purposes of preservation, scholar-*
11 *ship, teaching, or research, if the library, archives or non-*
12 *profit educational institution has first determined, on the*
13 *basis of a reasonable investigation of reasonably available*
14 *sources, that the work—*

15 “(A) *is not subject to normal commercial exploi-*
16 *tation; and*

17 “(B) *cannot be obtained at a reasonable price.*

18 “(2) *No reproduction or distribution under this sub-*
19 *section is authorized if the copyright owner or its agent pro-*
20 *vides notice to the Copyright Office that the condition in*
21 *paragraph (1)(A) or the condition in paragraph (1)(B) does*
22 *not apply.”.*

23 (b) *PREEMPTION WITH RESPECT TO OTHER LAWS.—*
24 *Section 301(c) of title 17, United States Code, is amended*

1 *by striking “February 15, 2047” each place it appears and*
2 *inserting “February 15, 2067”.*

3 *(c) DURATION OF COPYRIGHT: WORKS CREATED ON*
4 *OR AFTER JANUARY 1, 1978.—Section 302 of title 17, Unit-*
5 *ed States Code, is amended—*

6 *(1) in subsection (a) by striking “fifty” and*
7 *inserting “70”;*

8 *(2) in subsection (b) by striking “fifty” and*
9 *inserting “70”;*

10 *(3) in subsection (c) in the first sentence—*

11 *(A) by striking “seventy-five” and inserting*
12 *“95”; and*

13 *(B) by striking “one hundred” and*
14 *inserting “120”; and*

15 *(4) in subsection (e) in the first sentence—*

16 *(A) by striking “seventy-five” and inserting*
17 *“95”;*

18 *(B) by striking “one hundred” and*
19 *inserting “120”; and*

20 *(C) by striking “fifty” each place it appears*
21 *and inserting “70”.*

22 *(d) DURATION OF COPYRIGHT: WORKS CREATED BUT*
23 *NOT PUBLISHED OR COPYRIGHTED BEFORE JANUARY 1,*
24 *1978.—Section 303 of title 17, United States Code, is*

1 *amended in the second sentence by striking “December 31,*
 2 *2027” and inserting “December 31, 2047”.*

3 *(e) DURATION OF COPYRIGHT: SUBSISTING COPY-*
 4 *RIGHTS.—*

5 *(1) Section 304 of title 17, United States Code,*
 6 *is amended—*

7 *(A) in subsection (a)—*

8 *(i) in paragraph (1)—*

9 *(I) in subparagraph (B) by strik-*
 10 *ing “47” and inserting “67”; and*

11 *(II) in subparagraph (C) by strik-*
 12 *ing “47” and inserting “67”;*

13 *(ii) in paragraph (2)—*

14 *(I) in subparagraph (A) by strik-*
 15 *ing “47” and inserting “67”; and*

16 *(II) in subparagraph (B) by strik-*
 17 *ing “47” and inserting “67”; and*

18 *(iii) in paragraph (3)—*

19 *(I) in subparagraph (A)(i) by*
 20 *striking “47” and inserting “67”; and*

21 *(II) in subparagraph (B) by strik-*
 22 *ing “47” and inserting “67”;*

23 *(B) by amending subsection (b) to read as*
 24 *follows:*

1 “(b) *COPYRIGHTS IN THEIR RENEWAL TERM AT THE*
 2 *TIME OF THE EFFECTIVE DATE OF THE COPYRIGHT TERM*
 3 *EXTENSION ACT OF 1996.—Any copyright still in its re-*
 4 *newal term at the time that the Copyright Term Extension*
 5 *Act of 1996 becomes effective shall have a copyright term*
 6 *of 95 years from the date copyright was originally se-*
 7 *cured.”;*

8 *(C) in subsection (c)(4)(A) in the first sen-*
 9 *tence by inserting “or, in the case of a termi-*
 10 *nation under subsection (d), within the five-year*
 11 *period specified by subsection (d)(2),” after*
 12 *“specified by clause (3) of this subsection,”; and*

13 *(D) by adding at the end the following new*
 14 *subsection:*

15 “(d) *TERMINATION RIGHTS PROVIDED IN SUBSECTION*
 16 *(c) WHICH HAVE EXPIRED ON OR BEFORE THE EFFECTIVE*
 17 *DATE OF THE COPYRIGHT TERM EXTENSION ACT OF*
 18 *1996.—In the case of any copyright other than a work made*
 19 *for hire, subsisting in its renewal term on the effective date*
 20 *of the Copyright Term Extension Act of 1996 for which the*
 21 *termination right provided in subsection (c) has expired by*
 22 *such date, where the author or owner of the termination*
 23 *right has not previously exercised such termination right,*
 24 *the exclusive or nonexclusive grant of a transfer or license*
 25 *of the renewal copyright or any right under it, executed*

1 before January 1, 1978, by any of the persons designated
2 in subsection (a)(1)(C) of this section, other than by will,
3 is subject to termination under the following conditions:

4 “(1) The conditions specified in subsection (c)
5 (1), (2), (4), (5), and (6) of this section apply to ter-
6 minations of the last 20 years of copyright term as
7 provided by the amendments made by the Copyright
8 Term Extension Act of 1996.

9 “(2) Termination of the grant may be effected at
10 any time during a period of 5 years beginning at the
11 end of 75 years from the date copyright was origi-
12 nally secured.”.

13 (2) Section 102 of the Copyright Renewal Act of
14 1992 (Public Law 102–307; 106 Stat. 266; 17 U.S.C.
15 304 note) is amended—

16 (A) in subsection (c)—

17 (i) by striking “47” and inserting
18 “67”;

19 (ii) by striking “(as amended by sub-
20 section (a) of this section)”; and

21 (iii) by striking “effective date of this
22 section” each place it appears and inserting
23 “effective date of the Copyright Term Exten-
24 sion Act of 1995”; and

1 (B) in subsection (g)(2) in the second sen-
2 tence by inserting before the period the following:
3 “, except each reference to forty-seven years in
4 such provisions shall be deemed to be 67 years”.

5 **SEC. 3. EFFECTIVE DATE.**

6 This Act and the amendments made by this Act shall
7 take effect on the date of the enactment of this Act.