HEINONLINE

Citation: 2 William H. Manz Federal Copyright Law The Histories of the Major Enactments of the 105th 1 1999

Content downloaded/printed from HeinOnline (http://heinonline.org) Wed Apr 10 13:27:07 2013

-- Your use of this HeinOnline PDF indicates your acceptance of HeinOnline's Terms and Conditions of the license agreement available at http://heinonline.org/HOL/License

-- The search text of this PDF is generated from uncorrected OCR text.

Calendar No. 491

104TH CONGRESS
2D SESSION

S. 483

[Report No. 104–315]

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

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

HeinOnline -- 2 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress 1 1999

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Term Extension Act of 1995".

SEC. 2. DURATION OF COPYRIGHT PROVISIONS.

(a) PREEMPTION WITH RESPECT TO OTHER LAWS.—Section 301(e) of title 17, United States Code, is amended by striking out "February 15, 2047" in each place it appears and inserting "February 15, 2067" in each such place.

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

(1) in subsection (a) by striking out "fifty" and inserting in lieu thereof "seventy";

(2) in subsection (b) by striking out "fifty" and inserting in lieu thereof "seventy";

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

(A) by striking out "seventy-five" and inserting in lieu thereof "ninety-five"; and

(B) by striking out "one hundred" and inserting in lieu thereof "one hundred and twenty"; and

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

(A) by striking out "seventy-five" and inserting in lieu thereof "ninety-five";

HeinOnline -- 2 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress 2 1999

(B) by striking out "one hundred" and inserting in lieu thereof "one hundred and twenty"; and

(C) by striking out "fifty" in each place it appears and inserting "seventy" in each such place.

(c) DURATION OF COPYRIGHT: WORKS CREATED BUT NOT PUBLISHED OR COPYRIGHTED BEFORE JANUARY 1, 1978.—Section 303 of title 17, United States Code, is amended in the second sentence—

(1) by striking out "December 31, 2002" in each place it appears and inserting "December 31, 2012" in each such place; and

(2) by striking out "December 31, 2027" and inserting in lieu thereof "December 31, 2047".

(d) DURATION OF COPYRIGHT: SUBSISTING COPYRIGHTS.—

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

(A) in subsection (a)—

(i) in paragraph (1)—

(I) in subparagraph (B) by striking out "47" and inserting in lieu thereof "67"; and

HeinOnline -- 2 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress 3 1999

(II) in subparagraph (C) by striking out "47" and inserting in lieu thereof "67";

(ii) in paragraph (2)—

(I) in subparagraph (A) by striking out "47" and inserting in lieu thereof "67"; and

(II) in subparagraph (B) by striking out "47 and inserting in lieu thereof "67"; and

(iii) in paragraph (3)—

(I) in subparagraph (A)(i) by striking out "47" and inserting in lieu thereof "67"; and

(II) in subparagraph (B) by striking out "47" and inserting in lieu thereof "67"; and

(B) in subsection (b) by striking out "seventy-five" and inserting in lieu thereof "ninety-five".

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

(A) in subsection (c)—

HeinOnline -- 2 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress 4 1999

~~(i) by striking out "47" and inserting in lieu thereof "67";~~

~~(ii) by striking out "(as amended by subsection (a) of this section)"; and~~

~~(iii) by striking out "effective date of this section" each place it appears and inserting in each such place "effective date of the Copyright Term Extension Act of 1995"; and~~

~~(B) in subsection (g)(2) in the second sentence by inserting before the period the following: ", except each reference to forty-seven years in such provisions shall be deemed to be sixty-seven years".~~

~~SEC. 3. EFFECTIVE DATE.~~

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Term Extension Act of 1996".

SEC. 2. DURATION OF COPYRIGHT PROVISIONS.

(a) CLARIFICATION OF LIBRARY EXEMPTION OF EXCLUSIVE RIGHTS.—

Section 108 of title 17, United States Code, is amended—

HeinOnline -- 2 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress 5 1999

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

(2) by inserting after subsection (g) the following:

"(h)(1) Notwithstanding any other limitation in this title, for purposes of this section, during the last 20 years of any term of a copyright of a published work, a library, archives, or nonprofit educational institution may reproduce or distribute a copy or a phonorecord of such work, or portions thereof, for purposes of preservation, scholarship, teaching, or research, if the library, archives or nonprofit educational institution has first determined, on the basis of a reasonable investigation of reasonably available sources, that the work—

"(A) is not subject to normal commercial exploitation; and

"(B) cannot be obtained at a reasonable price.

"(2) No reproduction or distribution under this subsection is authorized if the copyright owner or its agent provides notice to the Copyright Office that the condition in paragraph (1)(A) or the condition in paragraph (1)(B) does not apply.".

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

HeinOnline -- 2 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress 6 1999

by striking "February 15, 2047" each place it appears and inserting "February 15, 2067".

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

(1) in subsection (a) by striking "fifty" and inserting "70";

(2) in subsection (b) by striking "fifty" and inserting "70";

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

(A) by striking "seventy-five" and inserting "95"; and

(B) by striking "one hundred" and inserting "120"; and

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

(A) by striking "seventy-five" and inserting "95";

(B) by striking "one hundred" and inserting "120"; and

(C) by striking "fifty" each place it appears and inserting "70".

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

HeinOnline -- 2 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress 7 1999

amended in the second sentence by striking "December 31, 2027" and inserting "December 31, 2047".

(e) DURATION OF COPYRIGHT: SUBSISTING COPYRIGHTS.—

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

(A) in subsection (a)—

(i) in paragraph (1)—

(I) in subparagraph (B) by striking "47" and inserting "67"; and

(II) in subparagraph (C) by striking "47" and inserting "67";

(ii) in paragraph (2)—

(I) in subparagraph (A) by striking "47" and inserting "67"; and

(II) in subparagraph (B) by striking "47" and inserting "67"; and

(iii) in paragraph (3)—

(I) in subparagraph (A)(i) by striking "47" and inserting "67"; and

(II) in subparagraph (B) by striking "47" and inserting "67";

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

HeinOnline -- 2 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress 8 1999

"(b) COPYRIGHTS IN THEIR RENEWAL TERM AT THE TIME OF THE EFFECTIVE DATE OF THE COPYRIGHT TERM EXTENSION ACT OF 1996.—Any copyright still in its renewal term at the time that the Copyright Term Extension Act of 1996 becomes effective shall have a copyright term of 95 years from the date copyright was originally secured.";

(C) in subsection (c)(4)(A) in the first sentence by inserting "or, in the case of a termination under subsection (d), within the five-year period specified by subsection (d)(2)," after "specified by clause (3) of this subsection,"; and

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

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

HeinOnline -- 2 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress 9 1999

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

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

"(2) Termination of the grant may be effected at any time during a period of 5 years beginning at the end of 75 years from the date copyright was originally secured.".

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

(A) in subsection (c)—

(i) by striking "47" and inserting "67";

(ii) by striking "(as amended by subsection (a) of this section)"; and

(iii) by striking "effective date of this section" each place it appears and inserting "effective date of the Copyright Term Extension Act of 1995"; and

HeinOnline -- 2 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress 10 1999

(B) in subsection (g)(2) in the second sentence by inserting before the period the following: ", except each reference to forty-seven years in such provisions shall be deemed to be 67 years".

SEC. 3. EFFECTIVE DATE.

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

HeinOnline -- 2 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress 11 1999

HeinOnline -- 2 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress 12 1999

Document No. 38

HeinOnline -- 2 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress [i] 1999

HeinOnline -- 2 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress [ii] 1999