

Announcement

from the Copyright Office, Library of Congress, Washington, D.C. 20559

COPYRIGHT REVISION BILL BECOMES LAW: MOST PROVISIONS TO TAKE EFFECT JANUARY 1, 1978

President Gerald R. Ford signed, on October 19, 1976, the bill for the general revision of the United States copyright law, which became Public Law 94-553 (90 Stat. 2541). The new statute specifies that, with particular exceptions, its provisions are to enter into force on January 1, 1978. The new law will supersede the copyright act of 1909, as amended, which will however remain in force until the new enactment takes effect.

The following are some of the highlights of the new statute. For detailed information about specific changes or new provisions, write to the Copyright Office.

Single National System. Instead of the present dual system of protecting works under the common law before they are published and under the Federal statute after publication, the new law will establish a single system of statutory protection for all copyrightable works, whether published or unpublished.

Duration of Copyright. For works already under statutory protection, the new law retains the present term of copyright of 28 years from first publication (or from registration in some cases), renewable by certain persons for a second period of protection, but it increases the length of the second period to 47 years. Copyrights in their first term must still be renewed to receive the full new maximum term of 75 years, but copyrights in their second term between December 31, 1976 and December 31, 1977, are automatically extended up to the maximum of 75 years without the need for further renewal.

For works created after January 1, 1978, the new law provides a term lasting for the author's life, plus an additional 50 years after the author's death. For works made for hire, and for anonymous and pseudonymous works, the new term will be 75 years from publication or 100 years from creation, whichever is shorter.

For unpublished works that are already in existence on January 1, 1978, but that are not protected by statutory copyright and have not yet gone into the public domain, the new Act will generally provide automatic Federal copyright protection for the same life-plus-50 or 75/100-year terms prescribed for new works. Special dates of termination are provided for copyrights in older works of this sort.

The new Act does not restore copyright protection for any work that has gone into the public domain.

Termination of Transfers. Under the present law, after the first term of 28 years the renewal copyright reverts in certain situations to the author or other specified beneficiaries. The new law drops the renewal feature except for works already in their first term of statutory protection when the new law takes effect. Instead, for transfers of rights made by an author or certain of the author's heirs after January 1, 1978, the new Act generally permits the author or certain heirs to terminate the transfer after 35 years by serving written notice on the transferee within specified time limits.

For works already under statutory copyright protection, a similar right of termination is provided with respect to transfers covering the newly-added years extending the present maximum term of the copyright from 56 to 75 years. Within certain time limits, an author or specified heirs of the author are generally entitled to file a notice terminating the author's transfers covering any part of the period (usually 19 years) that has now been added to the end of the second term of copyright in a work already under protection when the new law comes into effect.

Government Publications. The new law continues the prohibition in the present law against copyright in "publications of the United States Government" but clarifies its scope by defining works covered by the prohibition as those prepared by an officer or employee of the U.S. Government as part of that person's official duties.

Fair Use. The new law adds a provision to the statute specifically recognizing the principle of "fair use" as a limitation on the exclusive rights of copyright owners, and indicates factors to be considered in determining whether particular uses fall within this category.

Reproduction by Libraries and Archives. In addition to the provision for "fair use", the new law specifies circumstances under which the making or distribution of single copies of works by libraries and archives for noncommercial purposes do not constitute a copyright infringement.

Copyright Royalty Tribunal. The new law creates a Copyright Royalty Tribunal whose purpose will be to determine whether copyright royalty rates, in certain categories where such rates are established in the law, are reasonable and, if not, to adjust them; it will also in certain circumstances determine the distribution of those statutory royalty fees deposited with the Register of Copyrights.

Sound Recordings. The new law retains the provisions added to the present copyright law in 1972, which accord protection against the unauthorized duplication of sound recordings. The new law does not create a performance right for sound recordings as such.

Recording Rights in Music. The new law makes a number of changes in the present system providing compulsory licensing for the recording of music. Among other things it raises the statutory royalty from the present rate of 2 cents to a rate of 2 and 3/4 cents or 1/2 cent per minute of playing time, whichever amount is larger.

Exempt Performances. The new law removes the present general exemption of public performance of nondramatic literary and musical works where the performance is not "for profit." Instead, it provides several specific exemptions for certain types of nonprofit uses, including performances in classrooms and instructional broadcasting. The law also gives broadcasting organizations a limited privilege of making "ephemeral recordings" of their broadcasts.

Public Broadcasting. Under the new Act, noncommercial transmissions by public broadcasters of published musical and graphic works will be subject to a compulsory license. Copyright owners and public broadcasting entities that do not reach voluntary agreement will be subject to the terms and rates prescribed by the Copyright Royalty Tribunal.

Jukebox Exemption. The new law removes the present exemption for performances of copyrighted music by jukeboxes. It will substitute a system of compulsory licenses based upon the payment by jukebox operators of an annual royalty fee to the Register of Copyrights for later distribution by the Copyright Royalty Tribunal to the copyright owners.

Cable Television. The new law provides for the payment, under a system of compulsory licensing, of certain royalties for the secondary transmission of copyrighted works on cable television systems (CATV). The amounts are to be paid to the Register of Copyrights for later distribution to the copyright owners by the Copyright Royalty Tribunal.

Notice of Copyright. The old law now requires, as a mandatory condition of copyright protection, that the published copies of a work

bear a copyright notice. The new enactment calls for a notice on published copies, but omission or errors will not immediately result in forfeiture of the copyright, and can be corrected within certain time limits. Innocent infringers misled by the omission or error will be shielded from liability.

Deposit and Registration. As under the present law, registration will not be a condition of copyright protection but will be a prerequisite to an infringement suit. Subject to certain exceptions, the remedies of statutory damages and attorney's fees will not be available for infringements occurring before registration. Copies or phonorecords of works published with the notice of copyright that are not registered are required to be deposited for the collections of the Library of Congress, not as a condition of copyright protection, but under provisions of the law making the copyright owner subject to certain penalties for failure to deposit after a demand by the Register of Copyrights.

Manufacturing Clause. Certain works must now be manufactured in the United States to have copyright protection here. The new Act would terminate this requirement completely after July 1, 1982. For the period between January 1, 1978 and July 1, 1982, it makes several modifications that will narrow the coverage of the manufacturing clause, will permit the importation of 2,000 copies manufactured abroad instead of the present limit of 1,500 copies, and will equate manufacture in Canada with manufacture in the United States.

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The present movement for general revision of the copyright law began in 1955 with a program that produced, under the supervision of the Copyright Office, a series of 35 extensive studies of major copyright problems. This was followed by a report of the Register of Copyrights on general revision in 1961, by the preparation in the Copyright Office of a preliminary proposed draft bill, and by a series of meetings with a Panel of Consultants consisting of copyright experts, the majority of them from outside the Government. Following a supplementary report by the Register and a bill introduced in Congress primarily for consideration and comment, the first legislative hearings were held before a subcommittee of the House Judiciary Committee on the basis of a bill introduced in 1965. Also in the same year a companion bill was introduced in the Senate.

In 1967, after the subcommittee had held extensive hearings, the House of Representatives passed a revision bill whose major features were similar to the bill just enacted.

There followed another series of extensive hearings before a subcommittee of the Senate Judiciary Committee but, owing chiefly to an extended impasse on the complex and controversial subject of cable television, the revision bill was prevented from reaching the Senate floor.

Indeed it was not until 1974 that the copyright revision bill was enacted by the Senate. However, that bill, although in its general terms the same as the measure approved by the House in 1967, was different in a number of particulars. In February 1976 the Senate again passed the bill in essentially the same form as the one it had previously passed. Thereafter the House, following further hearings and consideration by the Judiciary subcommittee, passed the bill on September 22, 1976. There followed a meeting of a conference committee of the two Houses, which resolved the differences between the two bills and reported a single version that was enacted by each body and presented to the President.

During the period before January 1, 1978, the Copyright Office will prepare regulations in accordance with the new statute and will also revise its application forms, instructions, and other printed matter to meet the needs under the new law. In addition, the Office plans to hold extensive meetings with interested parties in order to make the transition from the old law to the new as smooth and efficient as possible.

Additional copies of the new statute are available free of charge by writing to the Copyright Office, Library of Congress, Washington, D. C. 20559. You may also have your name added to the Copyright Office Mailing List by sending a written request to the Copyright Office.