

Copyright Laws and Regulations

sworn or official certification that it is a true copy of the original, signed document.

(b) **Certificate of Recordation.** - The Register of Copyrights shall, upon receipt of a document as provided by subsection (a) and of the fee provided by section 708, record the document and return it with a certificate of recordation.

(c) **Recordation as Constructive Notice.** - Recordation of a document in the Copyright Office gives all persons constructive notice of the facts stated in the recorded document, but only if -

- (1) the document, or material attached to it, specifically identifies the work to which it pertains so that, after the document is indexed by the Register of Copyrights, it would be revealed by a reasonable search under the title or registration number of the work; and
- (2) registration has been made for the work.

(d) **Priority Between Conflicting Transfers.** - As between two conflicting transfers, the one executed first prevails if it is recorded, in the manner required to give constructive notice under subsection (c), within one month after its execution in the United States or within two months after its execution outside the United States, or at any time before recordation in such manner of the later transfer. Otherwise the later transfer prevails if recorded first in such manner, and if taken in good faith, for valuable consideration or on the basis of a binding promise to pay royalties, and without notice of the earlier transfer.

(e) **Priority Between Conflicting Transfer of Ownership and Nonexclusive License.** - A nonexclusive license, whether recorded or not, prevails over a conflicting transfer of copyright ownership if the license is evidenced by a written instrument signed by the owner of the rights licensed or such owner's duly authorized agent, and if -

- (1) the license was taken before execution of the transfer; or
- (2) the license was taken in good faith before recordation of the transfer and without notice of it.

(Pub. L. 94-553, title I, Sec. 101, Oct. 19, 1976, 90 Stat. 2571; Pub. L. 100-568, Sec. 5, Oct. 31, 1988, 102 Stat. 2857.)

CHAPTER 3—DURATION OF COPYRIGHT

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17 U.S.C. 301 Preemption with respect to other laws

(a) On and after January 1, 1978, all legal or equitable rights that are equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106 in works of authorship that are fixed in a tangible medium of expression and come within the subject matter of copyright as specified by sections 102 and 103, whether created before or after that date and whether published or unpublished, are governed exclusively by this title. Thereafter, no person is entitled to any such right or equivalent right in any such work under the common law or statutes of any State.

(b) Nothing in this title annuls or limits any rights or remedies under the common law or statutes of any State with respect to -

- (1) subject matter that does not come within the subject matter of copyright as specified by sections 102 and 103, including works of authorship not fixed in any tangible medium of expression; or
- (2) any cause of action arising from undertakings commenced before January 1, 1978;
- (3) activities violating legal or equitable rights that are not equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106; or
- (4) State and local landmarks, historic preservation, zoning, or building codes, relating to architectural works protected under section 102(a)(8).

(c) With respect to sound recordings fixed before February 15, 1972, any rights or remedies under the common law or statutes of any State shall not be annulled or limited by this title until February 15, 2047. The preemptive provisions of subsection (a) shall apply to any such rights and remedies pertaining to any cause of action arising from undertakings commenced on and after February 15, 2047. Notwithstanding the provisions of section 303, no sound recording fixed before February 15, 1972, shall be subject to copyright under this title before, on, or after February 15, 2047

(d) Nothing in this title annuls or limits any rights or remedies under any other Federal .

(e) The scope of Federal preemption under this section is not affected by the adherence of the United States to the Berne Convention or the satisfaction of obligations of the United States thereunder.

(f)(1) On or after the effective date set forth in section 610(a) of the Visual Artists Rights Act of 1990, all legal or equitable rights that are equivalent to any of the rights conferred by section 106A with respect to works of visual art to which the rights conferred by section 106A apply are governed exclusively by section 106A and section 113(d) and the provisions of this title relating to such sections. Thereafter, no person is entitled to any such right or equivalent right in any work of visual art under the common law or statutes of any State.

- (2) Nothing in paragraph (1) annuls or limits any rights or remedies under the common law or statutes of any State with respect to -
 - (A) any cause of action from undertakings commenced before the effective date set forth in section 610(a) of the Visual Artists Rights Act of 1990;
 - (B) activities violating legal or equitable rights that are not equivalent to any of the rights conferred by section 106A with respect to works of visual art; or

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- (C) activities violating legal or equitable rights which extend beyond the life of the author.

(Pub. L. 94-553, title I, Sec. 101, Oct. 19, 1976, 90 Stat. 2572; Pub. L. 100-568, Sec. 6, Oct. 31, 1988, 102 Stat. 2857; Pub. L. 101-650, title VI, Sec. 605, title VII, Sec. 705, Dec. 1, 1990, 104 Stat. 5131, 5134.)

17 U.S.C. 302 Duration of copyright: Works created on or after January 1, 1978

(a) In General. - Copyright in a work created on or after January 1, 1978, subsists from its creation and, except as provided by the following subsections, endures for a term consisting of the life of the author and fifty years after the author's death.

(b) Joint Works. - In the case of a joint work prepared by two or more authors who did not work for hire, the copyright endures for a term consisting of the life of the last surviving author and fifty years after such last surviving author's death.

(c) Anonymous Works, Pseudonymous Works, and Works Made for Hire. - In the case of an anonymous work, a pseudonymous work, or a work made for hire, the copyright endures for a term of seventy-five years from the year of its first publication, or a term of one hundred years from the year of its creation, whichever expires first. If, before the end of such term, the identity of one or more of the authors of an anonymous or pseudonymous work is revealed in the records of a registration made for that work under subsections (a) or (d) of section 408, or in the records provided by this subsection, the copyright in the work endures for the term specified by subsection (a) or (b), based on the life of the author or authors whose identity has been revealed. Any person having an interest in the copyright in an anonymous or pseudonymous work may at any time record, in records to be maintained by the Copyright Office for that purpose, a statement identifying one or more authors of the work; the statement shall also identify the person filing it, the nature of that person's interest, the of the information recorded, and the particular work affected, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation.

(d) Records Relating to Death of Authors. - Any person having an interest in a copyright may at any time record in the Copyright Office a statement of the date of death of the author of the copyrighted work, or a statement that the author is still living on a particular date. The statement shall identify the person filing it, the nature of that person's interest, and the of the information recorded, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall maintain current records of information relating to the death of authors of copyrighted works, based on such recorded statements and, to the extent the Register considers practicable, on data contained in any of the records of the Copyright Office or in other reference statutes.

(e) Presumption as to Author's Death. - After a period of seventy-five years from the year of first publication of a work, or a period of one hundred years from the year of its creation, whichever expires first, any person who obtains from the Copyright Office a certified report that the records provided by subsection (d) disclose nothing to indicate that the author of the work is living, or died less than fifty years before, is entitled to the benefits of a presumption that the author has been dead for at least fifty years. Reliance in good faith upon this presumption shall be a complete defense to any action for infringement under this title.

(Pub. L. 94-553, title I, Sec. 101, Oct. 19, 1976, 90 Stat. 2572.)

17 U.S.C. 303 Duration of copyright: Works created but not published or copyrighted before January 1, 1978

Copyright in a work created before January 1, 1978, but not theretofore in the public domain or copyrighted, subsists from January 1, 1978, and endures for the term provided by section 302. In no case, however, shall the term of copyright in such a work expire before December 31, 2002; and, if the work is published on or before December 31, 2002, the term of copyright shall not expire before December 31, 2027

(Pub. L. 94-553, title I, Sec. 101, Oct. 19, 1976, 90 Stat. 2573.)

17 U.S.C. 304 Duration of copyright: Subsisting copyrights

- (a) Copyrights in Their First Term on January 1, 1978 -

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- (1)(A) Any copyright, the first term of which is subsisting on January 1, 1978, shall endure for 28 years from the date it was originally secured.
- (B) In the case of -
- (i) any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or
 - (ii) any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire, the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of 47 years.
- (C) In the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work -
- (i) the author of such work, if the author is still living,
 - (ii) the widow, widower, or children of the author, if the author is not living,
 - (iii) the author's executors, if such author, widow, widower, or children are not living, or
 - (iv) the author's next of kin, in the absence of a will of the author,
- shall be entitled to a renewal and extension of the copyright in such work for a further term of 47 years.
- (2)(A) At the expiration of the original term of copyright in a work specified in paragraph (1)(B) of this subsection, the copyright shall endure for a renewed and extended further term of 47 years, which -
- (i) if an application to register a claim to such further term has been made to the Copyright Office within 1 year before the expiration of the original term of copyright, and the claim is registered, shall vest, upon the beginning of such further term, in the proprietor of the copyright who is entitled to claim the renewal of copyright at the time the application is made; or
 - (ii) if no such application is made or the claim pursuant to such application is not registered, shall vest, upon the beginning of such further term, in the person or entity that was the proprietor of the copyright as of the last day of the original term of copyright.
- (B) At the expiration of the original term of copyright in a work specified in paragraph (1)(C) of this subsection, the copyright shall endure for a renewed and extended further term of 47 years, which -
- (i) if an application to register a claim to such further term has been made to the Copyright Office within 1 year before the expiration of the original term of copyright, and the claim is registered, shall vest, upon the beginning of such further term, in any person who is entitled under paragraph (1)(C) to the renewal and extension of the copyright at the time the application is made; or
 - (ii) if no such application is made or the claim pursuant to such application is not registered, shall vest, upon the beginning of such further term, in any person entitled under paragraph (1)(C), as of the last day of the original term of copyright, to the renewal and extension of the copyright.
- (3)(A) An application to register a claim to the renewed and extended term of copyright in a work may be made to the Copyright Office -
- (i) within 1 year before the expiration of the original term of copyright

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by any person entitled under paragraph (1)(B) or (C) to such further term of 47 years; and

- (ii) at any time during the renewed and extended term by any person in whom such further term vested, under paragraph (2)(A) or (B), or by any successor or assign of such person, if the application is made in the name of such person.

- (B) Such an application is not a condition of the renewal and extension of the copyright in a work for a further term of 47 years.

- (4)(A) If an application to register a claim to the renewed and extended term of copyright in a work is not made within 1 year before the expiration of the original term of copyright in a work, or if the claim pursuant to such application is not registered, then a derivative work prepared under authority of a grant of a transfer or license of the copyright that is made before the expiration of the original term of copyright may continue to be used under the terms of the grant during the renewed and extended term of copyright without infringing the copyright, except that such use does not extend to the preparation during such renewed and extended term of other derivative works based upon the copyrighted work covered by such grant.

- (B) If an application to register a claim to the renewed and extended term of copyright in a work is made within 1 year before its expiration, and the claim is registered, the certificate of such registration shall constitute prima facie evidence as to the validity of the copyright during its renewed and extended term and of the facts stated in the certificate. The evidentiary weight to be accorded the certificates of a registration of a renewed and extended term of copyright made after the end of that 1-year period shall be within the discretion of the court.

(b) Copyrights in Their Renewal Term or Registered for Renewal Before January 1, 1978 - The duration of any copyright, the renewal term of which is subsisting at any time between December 31, 1976, and December 31, 1977, inclusive, or for which renewal registration is made between December 31, 1976, and December 31, 1977, inclusive, is extended to endure for a term of seventy-five years from the date copyright was originally secured.

(c) Termination of Transfers and Licenses Covering Extended Renewal Term. - In the case of any copyright subsisting in either its first or renewal term on January 1, 1978, other than a copyright in a work made for hire, the exclusive or nonexclusive grant of a transfer or license of the renewal copyright or any right under it, executed before January 1, 1978, by any of the persons designated by the (FOOTNOTE 1) subsection (a)(1)(C) of this section, otherwise than by will, is subject to termination under the following conditions: (FOOTNOTE 1) So in original. The word "the" probably should not appear.

- (1) In the case of a grant executed by a person or persons other than the author, termination of the grant may be effected by the surviving person or persons who executed it. In the case of a grant executed by one or more of the authors of the work, termination of the grant may be effected, to the extent of a particular author's share in the ownership of the renewal copyright, by the author who executed it or, if such author is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one-half of that author's termination interest.
- (2) Where an author is dead, his or her termination interest is owned, and may be exercised, by his widow or her widower and his or her children or grandchildren as follows:
 - (A) the widow or widower owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow or widower owns one-half of the author's interest;
 - (B) the author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless