

Union Calendar No. 278

102^D CONGRESS
1ST SESSION

S. 756

[Report No. 102-194]

To amend title 17, United States Code, the copyright renewal provisions,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 21 (legislative day, FEBRUARY 6), 1991

Mr. DECONCINI (for himself, Mr. HATCH, Mr. LEAHY, Mr. GRASSLEY, and
Mr. SIMON) introduced the following bill; which was read twice and re-
ferred to the Committee on the Judiciary

OCTOBER 22 (legislative day, SEPTEMBER 19), 1991

Reported by Mr. BIDEN, with an amendment

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

A BILL

To amend title 17, United States Code, the copyright renewal
provisions, 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. COPYRIGHT RENEWAL PROVISIONS.**

2 (a) **DURATION OF COPYRIGHT: SUBSISTING COPY-**
3 **RIGHTS.**—Section 304(a) of title 17, United States Code,
4 is amended to read as follows:

5 “(a) **COPYRIGHTS IN THEIR FIRST TERM ON JANU-**
6 **ARY 1, 1978.**—(1)(A) Consistent with the provisions of
7 subparagraphs (B) and (C), any copyright, the first term
8 of which is subsisting on January 1, 1978, shall endure
9 for 28 years from the date it was originally secured.

10 “(B) In the case of any posthumous work or of any
11 periodical, cyclopedic, or other composite work upon which
12 the copyright was originally secured by the proprietor
13 thereof, or of any work copyrighted by a corporate body
14 (otherwise than as assignee or licensee of the individual
15 author) or by an employer for whom such work is made
16 for hire, the proprietor of such copyright shall be entitled
17 to a renewal and extension of the copyright in such work
18 for the further term of 47 years.

19 “(C) In the case of any other copyrighted work, in-
20 cluding a contribution by an individual author to a periodi-
21 cal or to a cyclopedic or other composite work, the author
22 of such work, if still living, or the widow, widower, or chil-
23 dren of the author, if the author be not living, or if such
24 author, widow, widower, or children be not living, then the
25 author's executors, or in the absence of a will, his or her
26 next of kin shall be entitled to a renewal and extension

1 of the copyright in such work for a further term of 47
2 years.

3 “(2)(A) At the expiration of the original term of
4 copyright in a work specified in paragraph (1)(A) of this
5 subsection, the copyright shall endure for a renewed and
6 extended further term of 47 years which shall vest upon
7 the beginning of such further term—

8 “(i) in the proprietor of the copyright if—

9 “(I) an application to register a claim to
10 such further term shall have been made to the
11 Copyright Office and registered within 1 year
12 prior to the expiration of the original term of
13 copyright; or

14 “(II) no such application is made and reg-
15 istered; and

16 “(ii) in the person or entity that was the propri-
17 etor of the copyright on the last day of the original
18 term of copyright.

19 “(B) At the expiration of the original term of copy-
20 right in a work specified in paragraph (1)(C) of this sub-
21 section, the copyright shall endure for a renewed and ex-
22 tended further term of 47 years which shall vest, upon,
23 the beginning of such further term—

1 “(i) in any person entitled under paragraph
2 (1)(C) to the renewal and extension of the copyright,
3 if—

4 “~~(I)~~ an application to register a claim to
5 such further term shall have been made to the
6 Copyright Office and registered within 1 year
7 prior to the expiration of the original term of
8 copyright; or

9 “~~(II)~~ no such application is made and reg-
10 istered; and

11 “(ii) in any person entitled under paragraph
12 (1)(C), as of the last day of the original term of
13 copyright, to such further term of 47 years.

14 “~~(3)(A)~~ An application to register a claim to the re-
15 newed and extended term of copyright in a work may be
16 made to the Copyright Office—

17 “(i) within 1 year prior to the expiration of the
18 original term of copyright by any person entitled
19 under paragraph (1) (B) or (C) to such further term
20 of 47 years; and

21 “(ii) at any time during the renewed and ex-
22 tended term by any person in whom such further
23 term vested, under paragraph (2) (A) or (B), or
24 their successors or assigns, so long as the applica-

1 tion is made in the name of the vested statutory
2 claimants.

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

6 “(4)(A) If an application to register a claim to the
7 renewed and extended term of copyright in a work is not
8 made and registered within 1 year before the expiration
9 of the original term of copyright in a work, then a deriva-
10 tive work prepared under authority of a grant made prior
11 to the expiration of the original term of copyright, may
12 continue to be utilized under the terms of the grant during
13 the renewed and extended term of copyright, but this
14 privilege does not extend to the preparation during such
15 renewed and extended term of other derivative works
16 based upon the copyrighted work covered by such grant.

17 “(B) If an application to register a claim to the re-
18 newed and extended term of copyright in a work is made
19 and registered within 1 year before its expiration, the cer-
20 tificate of such registration shall constitute prima facie
21 evidence as to the validity of the copyright during its re-
22 newed and extended term and of the facts stated in the
23 certificate. The evidentiary weight to be accorded the cer-
24 tificate of a registration of a renewed and extended term

1 of copyright made thereafter shall be within the discretion
2 of the court.”.

3 (b) **LEGAL EFFECT OF RENEWAL OF COPYRIGHT IS**
4 **UNCHANGED.**—The renewal and extension of a copyright
5 for a further term of 47 years as provided under sections
6 304(a) (1) and (2) of title 17, United States Code (as
7 amended by subsection (a) of this section) shall have the
8 same effect with respect to prior grants of a transfer or
9 license of the further term as did the renewal of a copy-
10 right prior to the effective date of this Act under the law
11 then in effect.

12 (c) **REGISTRATION PERMISSIVE.**—Section 408(a) of
13 title 17, United States Code, is amended to read as fol-
14 lows:

15 “(a) **REGISTRATION PERMISSIVE.**—At any time dur-
16 ing the subsistence of the first term of copyright in any
17 published or unpublished work in which the copyright was
18 secured before January 1, 1978, and during the subsist-
19 ence of any copyright secured on or after that date, the
20 owner of copyright or of any exclusive right in the work
21 may obtain registration of the copyright claim by deliver-
22 ing to the Copyright Office the deposit specified by this
23 section, together with the application and fee specified by
24 sections 409 and 708. Such registration is not a condition
25 of copyright protection.”.

1 (d) FALSE REPRESENTATION.—Section 506(c) of
2 title 17, United States Code, is amended to read as fol-
3 lows:

4 “(e) FALSE REPRESENTATION.—Any person who
5 knowingly makes a false representation of a material fact
6 in the application for copyright registration provided for
7 by section 409, or in the application for a renewal reg-
8 istration, or in any written statement filed in connection
9 with either application, shall be fined not more than
10 \$2,500.”.

11 (e) COPYRIGHT OFFICE FEES.—Section 708(a)(2) of
12 title 17, United States Code, is amended to read as fol-
13 lows:

14 “(2) on filing each application of registration of
15 a claim to a renewal of a subsisting copyright under
16 section 304(a), including the issuance of a certificate
17 of registration if registration is made, \$20.”.

18 (f) EFFECTIVE DATE; COPYRIGHTS AFFECTED BY
19 AMENDMENT.—(1) This section shall take effect upon the
20 date of enactment.

21 (2) The provisions of this section shall apply only to
22 those copyrights secured between January 1, 1963 and
23 December 31, 1977. Copyrights secured prior to January
24 1, 1963 shall be governed by the provisions of section

1 304(a) in effect on the day prior to the effective date of
2 this Act.

3 **SEC. 2 REPEAL OF COPYRIGHT REPORT TO CONGRESS.**

4 Section 108(i) of title 17, United States Code, is re-
5 pealed.

6 **TITLE I—COPYRIGHT RENEWAL**
7 **PROVISIONS**

8 **SECTION 101. COPYRIGHT RENEWAL PROVISIONS.**

9 (a) *DURATION OF COPYRIGHT: SUBSISTING COPY-*
10 *RIGHTS.*—Section 304(a) of title 17, United States Code,
11 *is amended to read as follows:*

12 “(a) *COPYRIGHTS IN THEIR FIRST TERM ON JANUARY*
13 *1, 1978.—(1)(A) Any copyright, the first term of which is*
14 *subsisting on January 1, 1978, shall endure for 28 years*
15 *from the date it was originally secured.*

16 “(B) *In the case of—*

17 “(i) *any posthumous work or of any periodical,*
18 *cyclopedic, or other composite work upon which the*
19 *copyright was originally secured by the proprietor*
20 *thereof, or*

21 “(ii) *any work copyrighted by a corporate body*
22 *(otherwise than as assignee or licensee of the individ-*
23 *ual author) or by an employer for whom such work*
24 *is made for hire,*

1 the proprietor of such copyright shall be entitled to a re-
 2 newal and extension of the copyright in such work for the
 3 further term of 47 years.

4 “(C) In the case of any other copyrighted work, includ-
 5 ing a contribution by an individual author to a periodical
 6 or to a cyclopedic or other composite work—

7 “(i) the author of such work, if the author is still
 8 living,

9 “(ii) the widow, widower, or children of the au-
 10 thor, if the author is not living,

11 “(iii) the author’s executors, if such author,
 12 widow, widower, or children are not living, or

13 “(iv) the author’s next of kin, in the absence of
 14 a will of the author,

15 shall be entitled to a renewal and extension of the copyright
 16 in such work for a further term of 47 years.

17 “(2)(A) At the expiration of the original term of copy-
 18 right in a work specified in paragraph (1)(B) of this sub-
 19 section, the copyright shall endure for a renewed and ex-
 20 tended further term of 47 years, which—

21 “(i) if an application to register a claim to such
 22 further term has been made to the Copyright Office
 23 within 1 year before the expiration of the original
 24 term of copyright, and the claim is registered, shall
 25 vest, upon the beginning of such further term, in the

1 *proprietor of the copyright who is entitled to claim*
2 *the renewal of copyright at the time the application*
3 *is made; or*

4 *“(ii) if no such application is made or the claim*
5 *pursuant to such application is not registered, shall*
6 *vest, upon the beginning of such further term, in the*
7 *person or entity that was the proprietor of the copy-*
8 *right as of the last day of the original term of copy-*
9 *right.*

10 *“(B) At the expiration of the original term of copy-*
11 *right in a work specified in paragraph (1)(C) of this sub-*
12 *section, the copyright shall endure for a renewed and ex-*
13 *tended further term of 47 years, which—*

14 *“(i) if an application to register a claim to such*
15 *further term has been made to the Copyright Office*
16 *within 1 year before the expiration of the original*
17 *term of copyright, and the claim is registered, shall*
18 *vest, upon the beginning of such further term, in any*
19 *person who is entitled under paragraph (1)(C) to the*
20 *renewal and extension of the copyright at the time the*
21 *application is made; or*

22 *“(ii) if no such application is made or the claim*
23 *pursuant to such application is not registered, shall*
24 *vest, upon the beginning of such further term, in any*
25 *person entitled under paragraph (1)(C), as of the last*

1 *day of the original term of copyright, to the renewal*
2 *and extension of the copyright.*

3 “(3)(A) *An application to register a claim to the re-*
4 *newed and extended term of copyright in a work may be*
5 *made to the Copyright Office—*

6 “(i) *within 1 year before the expiration of the*
7 *original term of copyright by any person entitled*
8 *under paragraph (1) (B) or (C) to such further term*
9 *of 47 years; and*

10 “(ii) *at any time during the renewed and ex-*
11 *tended term by any person in whom such further*
12 *term vested, under paragraph (2) (A) or (B), or by*
13 *any successor or assign of such person, if the applica-*
14 *tion is made in the name of such person.*

15 “(B) *Such an application is not a condition of the re-*
16 *newal and extension of the copyright in a work for a further*
17 *term of 47 years.*

18 “(4)(A) *If an application to register a claim to the*
19 *renewed and extended term of copyright in a work is not*
20 *made within 1 year before the expiration of the original*
21 *term of copyright in a work, or if the claim pursuant to*
22 *such application is not registered, then a derivative work*
23 *prepared under authority of a grant of a transfer or license*
24 *of copyright that is made before the expiration of the origi-*
25 *nal term of copyright, may continue to be used under the*

1 terms of the grant during the renewed and extended term
2 of copyright without infringing the copyright, except that
3 such use does not extend to the preparation during such
4 renewed and extended term of other derivative works based
5 upon the copyrighted work covered by such grant.

6 “(B) If an application to register a claim to the re-
7 newed and extended term of copyright in a work is made
8 within 1 year before its expiration, and the claim is reg-
9 istered, the certificate of such registration shall constitute
10 prima facie evidence as to the validity of the copyright dur-
11 ing its renewed and extended term and of the facts stated
12 in the certificate. The evidentiary weight to be accorded the
13 certificate of a registration of a renewed and extended term
14 of copyright made after the end of that 1-year period shall
15 be within the discretion of the court.”

16 (b) **LEGAL EFFECT OF RENEWAL OF COPYRIGHT IS**
17 **UNCHANGED.**—The renewal and extension of a copyright
18 for a further term of 47 years as provided under paragraphs
19 (1) and (2) of section 304(a) of title 17, United States Code,
20 (as amended by subsection (a) of this section) shall have
21 the same effect with respect to any grant, before the effective
22 date of this section, of a transfer or license of the further
23 term as did the renewal of a copyright before the effective
24 date of this section under the law in effect at the time of
25 such grant.

1 (c) *CONFORMING AMENDMENT.*—Section 304(c) of title
 2 17, United States Code, is amended in the matter preceding
 3 paragraph (1) by striking “second proviso of subsection
 4 (a)” and inserting “subsection (a)(1)(C)”.

5 (d) *REGISTRATION PERMISSIVE.*—Section 408(a) of
 6 title 17, United States Code, is amended by striking “At”
 7 and all that follows through “unpublished work,” and in-
 8 serting “At any time during the subsistence of the first term
 9 of copyright in any published or unpublished work in which
 10 the copyright was secured before January 1, 1978, and dur-
 11 ing the subsistence of any copyright secured on or after that
 12 date,”.

13 (e) *FALSE REPRESENTATION.*—Section 506(e) of title
 14 17, United States Code, is amended by inserting after
 15 “409,” the following: “in the application for a renewal reg-
 16 istration,”.

17 (f) *COPYRIGHT OFFICE FEES.*—Section 708(a)(2) of
 18 title 17, United States Code, is amended—

19 (1) by striking “in its first term”; and

20 (2) by striking “\$12” and inserting “\$20”.

21 (g) *EFFECTIVE DATE; COPYRIGHTS AFFECTED BY*
 22 *AMENDMENT.*—(1) Subject to paragraphs (2) and (3), this
 23 section and the amendments made by this section shall take
 24 effect on the date of the enactment of this Act.

1 (2) *The amendments made by this section shall apply*
2 *only to those copyrights secured between January 1, 1963,*
3 *and December 31, 1977. Copyrights secured before January*
4 *1, 1963, shall be governed by the provisions of section*
5 *304(a) of title 17, United States Code, as in effect on the*
6 *day before the effective date of this section.*

7 (3) *This section and the amendments made by this sec-*
8 *tion shall not affect any court proceedings pending on the*
9 *effective date of this section.*

10 **SEC. 102. REPEAL OF COPYRIGHT REPORT TO CONGRESS.**

11 *Section 108(i) of title 17, United States Code, is re-*
12 *pealed.*

13 **TITLE II—FILM PRESERVATION**

14 **SEC. 201. SHORT TITLE.**

15 *This title may be cited as the “National Film Preser-*
16 *vation Act of 1991”.*

17 **SEC. 202. FINDINGS.**

18 *The Congress finds that—*

19 (1) *motion pictures are an indigenous American*
20 *art form that has been emulated throughout the world;*

21 (2) *certain motion pictures represent an endur-*
22 *ing part of our Nation’s historical and cultural herit-*
23 *age;*

24 (3) *because of deterioration or loss, less than one-*
25 *half of the feature-length films produced in the United*

1 *States before 1951, including only 20 percent of the*
2 *silent films, still exist and many of the films pro-*
3 *duced after 1951 are deteriorating at an alarming*
4 *rate; and*

5 *(4) it is appropriate and necessary for the Fed-*
6 *eral Government to—*

7 *(A) recognize motion pictures as a signifi-*
8 *cant American art form deserving of protection,*
9 *including preservation and restoration; and*

10 *(B) establish a National Film Registry of*
11 *films that represent an enduring part of our na-*
12 *tional, historical, and cultural heritage, which*
13 *Registry should be established and maintained*
14 *in the Library of Congress; and*

15 *(5) to the extent possible, and with the permis-*
16 *sion of the copyright owners, films selected for inclu-*
17 *sion in the National Film Registry should be made*
18 *widely available to the American public in their Reg-*
19 *istry versions.*

20 **SEC. 203. NATIONAL FILM REGISTRY OF THE LIBRARY OF**
21 **CONGRESS.**

22 *The Librarian of Congress (hereafter in this title re-*
23 *ferred to as the "Librarian") shall establish a National*
24 *Film Registry under the provisions of this Act, for the pur-*

1 poses of recognizing and preserving films that are cul-
2 turally, historically, or aesthetically significant.

3 **SEC. 204. DUTIES OF THE LIBRARIAN OF CONGRESS.**

4 (a) *DUTIES.*—The Librarian shall, after consultation
5 with the Board established under section 205—

6 (1) after completion of the study required under
7 section 212, establish a comprehensive national film
8 preservation program for films, in conjunction with
9 other major film archives, with the objectives of—

10 (A) coordinating activities to assure that
11 ongoing efforts of archivists and copyright own-
12 ers, and others in the public and private sector
13 are effective and complementary;

14 (B) generating public awareness of and sup-
15 port for those activities;

16 (C) increasing accessibility of films for edu-
17 cational purposes; and

18 (D) improving nationwide activities in the
19 preservation of works in other media such as
20 videotape;

21 (2) establish criteria and procedures pursuant to
22 which films may be included in the National Film
23 Registry, except that no film shall be eligible for in-
24 clusion in the National Film Registry until 10 years
25 after such film's first publication;

1 (3) establish procedures whereby the general pub-
2 lic may make recommendations to the Board regard-
3 ing the inclusion of films in such National Film Reg-
4 istry;

5 (4) establish procedures for the examination by
6 the Library of Congress of copies of films named for
7 inclusion in the National Film Registry to determine
8 eligibility for the use of the seal of the National Film
9 Registry;

10 (5) determine which films satisfy the criteria de-
11 veloped under paragraph (2) and qualify to be in-
12 cluded in the National Film Registry, except that the
13 Librarian shall not select more than 25 films each
14 year for inclusion in such Registry;

15 (6) publish in the Federal Register the name of
16 each film that is selected for inclusion in the National
17 Film Registry;

18 (7) provide a seal to indicate that a film is in-
19 cluded in the National Film Registry;

20 (8) to the extent practicable, ensure, subject to
21 the rights of copyright owners, that there is a Reg-
22 istry version of each film selected for the National
23 Film Registry;

1 (9) *publish in the Federal Register the standards*
2 *for preservation or restoration that shall qualify films*
3 *for use of the seal; and*

4 (10) *submit an annual report to the appropriate*
5 *committees of the Congress, listing films included in*
6 *the National Film Registry and describing the activi-*
7 *ties of the Board.*

8 (b) *SEAL.*—*A seal provided for a film under subsection*
9 *(a)(7) may be used on any copy of the Registry version*
10 *of such film as defined in section 211(6). Before such seal*
11 *may be used, the Library of Congress shall have examined*
12 *and approved the print from which the copy was made. In*
13 *the case of copyrighted works, only the copyright owner or*
14 *his duly authorized licensee may place or authorize the*
15 *placement of a seal on a copy of a film selected for inclusion*
16 *in the National Film Registry. In the case of works no*
17 *longer protected by copyright, the Library may affix a seal.*
18 *The person authorized by this subsection to place a seal on*
19 *a copy of a film selected for inclusion in the National Film*
20 *Registry may accompany such seal with the following lan-*
21 *guage: "This film is included in the National Film Reg-*
22 *istry, which is maintained by the Library of Congress, and*
23 *was preserved under the National Film Preservation Act*
24 *of 1991."*

1 **SEC. 205. NATIONAL FILM PRESERVATION BOARD.**

2 (a) *NUMBER AND APPOINTMENT.*—(1) *The Librarian*
3 *shall establish in the Library of Congress a National Film*
4 *Preservation Board to be comprised of 17 members, selected*
5 *by the Librarian in accordance with the provisions of this*
6 *section. Each organization listed in subparagraphs (A)*
7 *through (P) shall submit a list of not less than three quali-*
8 *fied candidates to the Librarian. With the exception of the*
9 *member listed in subparagraph (Q), the Librarian shall ap-*
10 *point 1 member from each such list submitted by the fol-*
11 *lowing organizations, and shall designate from that list an*
12 *alternate who may attend those meetings to which the indi-*
13 *vidual appointed to the Board cannot attend. Such organi-*
14 *zations shall include—*

15 (A) *the Academy of Motion Picture Arts and*
16 *Sciences;*

17 (B) *the Directors Guild of America;*

18 (C) *the Writers Guild of America East and West,*
19 *appointed in accordance with paragraph (2);*

20 (D) *the National Society of Film Critics;*

21 (E) *the Society for Cinema Studies;*

22 (F) *the American Film Institute;*

23 (G) *the Department of Theatre, Film and Tele-*
24 *vision, College of Fine Arts at the University of Cali-*
25 *ifornia, Los Angeles;*

1 (H) the Department of Film and Television at
2 New York University Tisch School of the Arts;

3 (I) the University Film and Video Association;

4 (J) the Motion Picture Association of America;

5 (K) the National Association of Broadcasters;

6 (L) the Alliance of Motion Picture and Tele-
7 vision Producers;

8 (M) the Screen Actors Guild of America;

9 (N) the National Association of Theater Owners;

10 (O) the American Society of Cinematographers
11 and the International Photographers Guild, ap-
12 pointed in accordance with paragraph (2)(B);

13 (P) the United States Members of the Inter-
14 national Federation of Film Archives; and

15 (Q) a member at large.

16 (2)(A) Each organization under paragraph (1)(C)
17 shall nominate 3 candidates. The Librarian shall appoint
18 a candidate from 1 organization as a member of the Board,
19 and shall select a candidate from the other organization as
20 an alternate.

21 (B) The American Society of Cinematographers shall
22 nominate 3 candidates, each of whom shall be a member
23 of the International Photographers Guild.

24 (3) The member at large listed in paragraph (1)(Q)
25 shall be chosen by the Librarian from names submitted by

1 organizations in the film industry, creative artists, produc-
2 ers, film critics, film preservation organizations, academic
3 institutions with film study programs, and others with
4 knowledge of copyright law and of the importance, use, and
5 dissemination of films. The Librarian shall also select from
6 the names submitted in this paragraph an alternate mem-
7 ber at large who may attend those meetings which the mem-
8 ber at large cannot attend.

9 (b) CHAIRPERSON.—The Librarian shall appoint 1
10 member to serve as Chairperson.

11 (c) TERM OF OFFICE.—(1) The term of each member
12 of the Board shall be 3 years. There shall be no limit to
13 the number of terms that any individual member may serve.

14 (2) A vacancy on the Board shall be filled in the man-
15 ner prescribed by the Librarian, except that no entity listed
16 in subsection (a) may have more than 1 nominee on the
17 Board at any time.

18 (d) QUORUM.—Nine members of the Board shall con-
19 stitute a quorum, but a lesser number may hold hearings.

20 (e) BASIC PAY.—Members of the Board shall serve
21 without pay. While away from their home or regular places
22 of business in the performance of services for the Board,
23 members of the Board shall be allowed travel expenses, in-
24 cluding per diem in lieu of subsistence, in the same manner
25 as persons employed intermittently in Government service

1 *are allowed expenses under section 5701 of title 5, United*
2 *States Code.*

3 (f) *MEETINGS.—The Board shall meet at least once*
4 *each calendar year. Meetings shall be at the call of the Li-*
5 *brarian.*

6 (g) *CONFLICT OF INTEREST.—The Librarian shall es-*
7 *tablish rules and procedures to address any potential con-*
8 *flict of interest between a member of the Board and respon-*
9 *sibilities of the Board.*

10 **SEC. 206. POWERS OF THE BOARD.**

11 (a) *IN GENERAL.—The Board may, for the purpose of*
12 *carrying out its duties, hold such hearings, sit and act at*
13 *such times and places, take such testimony, and receive such*
14 *evidence as the Librarian and Board considers appropriate.*

15 (b) *NOMINATION OF FILMS.—The Board shall consider,*
16 *for inclusion in the National Film Registry, nominations*
17 *submitted by the general public as well as representatives*
18 *of the film industry, such as the guilds and societies rep-*
19 *resenting actors, directors, screenwriters, cinematographers*
20 *and other creative artists, producers, film critics, film pres-*
21 *ervation organizations and representatives for academic in-*
22 *stitutions with film study programs.*

23 (c) *SELECTION OF FILMS.—The Board shall review*
24 *nominations of films submitted to it for inclusion in the*
25 *National Film Registry and consult with the Librarian and*

1 *make recommendations with respect to the selection of films*
2 *for the Registry and the preservation of these and other*
3 *films that are culturally, historically, or aesthetically sig-*
4 *nificant. The Board shall recommend and the Librarian*
5 *shall select not more than 25 films a year for inclusion in*
6 *the Registry.*

7 **SEC. 207. NATIONAL FILM REGISTRY COLLECTION OF THE**
8 **LIBRARY OF CONGRESS.**

9 (a) *COPY OF FILM.*—*The Librarian shall endeavor to*
10 *obtain, by gift from the owner, an archival quality copy*
11 *of a Registry version of each film included in the National*
12 *Film Registry. Whenever possible the Librarian shall en-*
13 *deavor to obtain the best surviving materials, including*
14 *preprint materials.*

15 (b) *ADDITIONAL MATERIALS.*—*In addition, the Li-*
16 *brarian shall endeavor to obtain, for educational and re-*
17 *search purposes, additional materials related to each film,*
18 *such as background materials, production reports, shooting*
19 *scripts (including continuity scripts) and other similar ma-*
20 *terials. Such materials shall become a part of the collection*
21 *described in subsection (d).*

22 (c) *PROPERTY OF THE UNITED STATES.*—*All copies*
23 *of films, and other materials, received by the Librarian*
24 *shall become the property of the United States Government,*

1 *except that nothing in this title shall infringe on the copy-*
2 *right owners' rights under title 17, United States Code.*

3 (d) *REGISTRY COLLECTION.*—All copies of films re-
4 ceived by the Librarian shall be maintained in a special
5 collection in the Library of Congress to be known as the
6 “National Film Registry Collection of the Library of Con-
7 gress”. The Librarian shall, by regulation, subject to the
8 limitations of title 17, United States Code—

9 (1) provide for reasonable access to films in such
10 collection for scholarly and research purposes; and

11 (2) to the extent practicable, and with the per-
12 mission of the copyright owners, endeavor to exhibit
13 or encourage the exhibition of such films to the public.

14 **SEC. 208. SEAL OF THE NATIONAL FILM REGISTRY.**

15 (a) *USE OF THE SEAL.*—No person shall knowingly
16 distribute or exhibit to the public a copy of a film which
17 bears a seal as described under section 204(a)(7) if such
18 film—

19 (1) is not included in the National Film Reg-
20 istry; or

21 (2) is included in the National Film Registry,
22 but the print from which such copy was made was
23 not examined and approved for use of the seal by the
24 Library of Congress pursuant to section 204(b).

1 **(b) EFFECTIVE DATE OF THE SEAL.**—*The use of the*
2 *seal as described in this section shall be effective for each*
3 *film after publication by the Librarian in the Federal Reg-*
4 *ister of the name of that film selected for inclusion in the*
5 *National Film Registry.*

6 **SEC. 209. REMEDIES.**

7 **(a) JURISDICTION.**—*The several district courts of the*
8 *United States shall have jurisdiction, for cause shown, to*
9 *prevent and restrain violations of section 208 upon the ap-*
10 *plication of the Librarian to the Attorney General of the*
11 *United States acting through the several United States At-*
12 *torneys in their several districts.*

13 **(b) RELIEF.**—(1) *Except as provided in paragraph*
14 *(2), relief shall be limited to the prospective removal of the*
15 *seal of the National Film Registry.*

16 (2) *In any case in which the Librarian finds a pattern*
17 *or practice of the willful violation of this title, the United*
18 *States District Courts may order civil fines of not more*
19 *than \$10,000 and appropriate injunctive relief.*

20 **(c) EXCLUSIVE REMEDIES.**—*The remedies provided*
21 *under this section shall be the exclusive remedies under this*
22 *title or any other Federal or State law, regarding the use*
23 *of the seal as described by section 204(a)(7).*

1 **SEC. 210. STAFF OF BOARD; EXPERTS AND CONSULTANTS.**

2 (a) *STAFF.*—*The Librarian may appoint and fix the*
3 *pay of such personnel as the Librarian considers appro-*
4 *priate.*

5 (b) *EXPERTS AND CONSULTANTS.*—*The Librarian*
6 *may procure temporary and intermittent services under*
7 *section 3109(b) of title 5, United States Code, but at rates*
8 *for individuals not to exceed the daily equivalent of the*
9 *maximum rate of basic pay payable for GS-15 of the Gen-*
10 *eral Schedule, and in no case may a Board member be paid*
11 *as an expert or consultant.*

12 **SEC. 211. DEFINITIONS.**

13 *For purposes of this title:*

14 (1) *The term “Board” means the National Film*
15 *Preservation Board.*

16 (2) *The term “copy” used in reference to a film*
17 *means a copy fixed on film stock, not on other media*
18 *such as videotapes or laser disks.*

19 (3) *The term “film” means a motion picture as*
20 *defined in section 101 of title 17, United States Code,*
21 *except that such term excludes any works not origi-*
22 *nally fixed on film stock, such as videotapes or laser*
23 *disks.*

24 (4) *The term “Librarian” means the Librarian*
25 *of Congress.*

1 (5) *The term "publication" means a publication*
2 *as defined in section 101 of title 17, United States*
3 *Code.*

4 (6) *The term "Registry version" means, with re-*
5 *spect to a film, the version of the film first published*
6 *or as complete a version as bona fide preservation*
7 *and restoration activities by the Library of Congress*
8 *or another archive acting pursuant to section 204 can*
9 *compile.*

10 **SEC. 212. STUDY BY THE LIBRARIAN OF CONGRESS.**

11 *The Librarian, after consultation with the Board, shall*
12 *conduct a study on the state of film preservation and res-*
13 *toration, including the activities of the Library of Congress*
14 *and the other major film archives in the United States. The*
15 *Librarian shall consult with film archivists, educators and*
16 *historians, copyright owners, film industry representatives,*
17 *including those involved in the preservation of film, and*
18 *others involved in activities related to film preservation. No*
19 *later than 1 year after the date of enactment of this section,*
20 *the Librarian shall submit to the Congress a report contain-*
21 *ing the results of the study conducted under this section.*

22 **SEC. 213. AUTHORIZATION OF APPROPRIATIONS.**

23 *There are authorized to be appropriated to the Library*
24 *of Congress, such sums as are necessary to carry out the*

1 *provisions of this title, but in no fiscal year shall such sum*
2 *exceed \$250,000.*

3 **SEC. 214. EFFECTIVE DATE.**

4 *The provisions of this title shall be effective on the date*
5 *of the enactment of this Act through September 30, 1997.*
6 *The provisions of this title shall apply to any copy of any*
7 *film, including films selected for inclusion in the National*
8 *Film Registry under the National Film Preservation Act*
9 *of 1988. Films selected for the National Film Registry*
10 *under the National Film Preservation Act of 1988 shall be*
11 *deemed to have been selected under this title.*

12 **SEC. 215. REPEAL.**

13 *The National Film Preservation Act of 1988 (2 U.S.C.*
14 *178 et seq.) is repealed.*

Union Calendar No. 278

102D CONGRESS
1ST SESSION

S. 756

[Report No. 102-194]

A BILL

To amend title 17, United States Code, the copyright renewal provisions, and for other purposes.

OCTOBER 22 (legislative day, SEPTEMBER 19), 1991

Reported with an amendment