

Public Law 106-474
106th Congress

An Act

To establish the National Recording Registry in the Library of Congress to maintain and preserve sound recordings that are culturally, historically, or aesthetically significant, and for other purposes.

Nov. 9, 2000

[H.R. 4846]

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Recording Preservation Act of 2000”.

National
Recording
Preservation Act
of 2000.
2 USC 1701 note.

TITLE I—SOUND RECORDING PRESERVATION BY THE LIBRARY OF CONGRESS

Subtitle A—National Recording Registry

SEC. 101. NATIONAL RECORDING REGISTRY OF THE LIBRARY OF CONGRESS.

Establishment.
2 USC 1701.

The Librarian of Congress shall establish the National Recording Registry for the purpose of maintaining and preserving sound recordings that are culturally, historically, or aesthetically significant.

SEC. 102. DUTIES OF LIBRARIAN OF CONGRESS.

2 USC 1702.

(a) **ESTABLISHMENT OF CRITERIA AND PROCEDURES.**—For purposes of carrying out this subtitle, the Librarian shall—

(1) establish criteria and procedures under which sound recordings may be included in the National Recording Registry, except that no sound recording shall be eligible for inclusion in the National Recording Registry until 10 years after the recording's creation;

(2) establish procedures under which the general public may make recommendations to the National Recording Preservation Board established under subtitle C regarding the inclusion of sound recordings in the National Recording Registry; and

(3) determine which sound recordings satisfy the criteria established under paragraph (1) and select such recordings for inclusion in the National Recording Registry.

(b) **PUBLICATION OF SOUND RECORDINGS IN THE REGISTRY.**—The Librarian shall publish in the Federal Register the name of

Federal Register,
publication.

each sound recording that is selected for inclusion in the National Recording Registry.

2 USC 1703.

SEC. 103. SEAL OF THE NATIONAL RECORDING REGISTRY.

(a) **IN GENERAL.**—The Librarian shall provide a seal to indicate that a sound recording has been included in the National Recording Registry and is the Registry version of that recording.

(b) **USE OF SEAL.**—The Librarian shall establish guidelines for approval of the use of the seal provided under subsection (a), and shall include in the guidelines the following:

(1) The seal may only be used on recording copies of the Registry version of a sound recording.

(2) The seal may be used only after the Librarian has given approval to those persons seeking to apply the seal in accordance with the guidelines.

(3) In the case of copyrighted mass distributed, broadcast, or published works, only the copyright legal owner or an authorized licensee of that copyright owner may place or authorize the placement of the seal on any recording copy of the Registry version of any sound recording that is maintained in the National Recording Registry Collection in the Library of Congress.

(4) Anyone authorized to place the seal on any recording copy of any Registry version of a sound recording may accompany such seal with the following language: "This sound recording is selected for inclusion in the National Recording Registry by the Librarian of Congress in consultation with the National Recording Preservation Board of the Library of Congress because of its cultural, historical, or aesthetic significance."

(c) **EFFECTIVE DATE OF THE SEAL.**—The use of the seal provided under subsection (a) with respect to a sound recording shall be effective beginning on the date the Librarian publishes in the Federal Register (in accordance with section 102(b)) the name of the recording, as selected for inclusion in the National Recording Registry.

(d) **PROHIBITED USES OF THE SEAL.**—

(1) **PROHIBITION ON DISTRIBUTION AND EXHIBITION.**—No person may knowingly distribute or exhibit to the public a version of a sound recording or any copy of a sound recording which bears the seal described in subsection (a) if such recording—

(A) is not included in the National Recording Registry;

or

(B) is included in the National Recording Registry but has not been approved for use of the seal by the Librarian pursuant to the guidelines established under subsection (b).

(2) **PROHIBITION ON PROMOTION.**—No person may knowingly use the seal described in subsection (a) to promote any version of a sound recording or recording copy other than a Registry version.

(e) **REMEDIES FOR VIOLATIONS.**—

(1) **JURISDICTION.**—The several district courts of the United States shall have jurisdiction, for cause shown, to prevent and restrain violations of subsection (d).

(2) **RELIEF.**—

(A) REMOVAL OF SEAL.—Except as provided in subparagraph (B), relief for violation of subsection (d) shall be limited to the removal of the seal from the sound recording involved in the violation.

(B) FINE AND INJUNCTIVE RELIEF.—In the case of a pattern or practice of the willful violation of subsection (d), the court may order a civil fine of not more than \$10,000 and appropriate injunctive relief.

(3) LIMITATION OF REMEDIES.—The remedies provided in this subsection shall be the exclusive remedies under this title, or any other Federal or State law, regarding the use of the seal described in subsection (a).

SEC. 104. NATIONAL RECORDING REGISTRY COLLECTION OF THE LIBRARY OF CONGRESS. 2 USC 1704.

(a) IN GENERAL.—All copies of sound recordings on the National Recording Registry that are received by the Librarian under subsection (b) shall be maintained in the Library of Congress and be known as the “National Recording Registry Collection of the Library of Congress”. The Librarian shall by regulation and in accordance with title 17, United States Code, provide for reasonable access to the sound recordings and other materials in such collection for scholarly and research purposes.

Regulations.

(b) ACQUISITION OF QUALITY COPIES.—

(1) IN GENERAL.—The Librarian shall seek to obtain, by gift from the owner, a quality copy of the Registry version of each sound recording included in the National Recording Registry.

(2) LIMIT ON NUMBER OF COPIES.—Not more than one copy of the same version or take of any sound recording may be preserved in the National Recording Registry. Nothing in the preceding sentence may be construed to prohibit the Librarian from making or distributing copies of sound recordings included in the Registry for purposes of carrying out this Act.

(c) PROPERTY OF UNITED STATES.—All copies of sound recordings on the National Recording Registry that are received by the Librarian under subsection (b) shall become the property of the United States Government, subject to the provisions of title 17, United States Code.

Subtitle B—National Sound Recording Preservation Program

SEC. 111. ESTABLISHMENT OF PROGRAM BY LIBRARIAN OF CONGRESS. 2 USC 1711.

(a) IN GENERAL.—The Librarian shall, after consultation with the National Recording Preservation Board established under subtitle C, implement a comprehensive national sound recording preservation program, in conjunction with other sound recording archivists, educators and historians, copyright owners, recording industry representatives, and others involved in activities related to sound recording preservation, and taking into account studies conducted by the Board.

(b) CONTENTS OF PROGRAM SPECIFIED.—The program established under subsection (a) shall—

(1) coordinate activities to assure that efforts of archivists and copyright owners, and others in the public and private sector, are effective and complementary;

(2) generate public awareness of and support for these activities;

(3) increase accessibility of sound recordings for educational purposes;

(4) undertake studies and investigations of sound recording preservation activities as needed, including the efficacy of new technologies, and recommend solutions to improve these practices; and

(5) utilize the audiovisual conservation center of the Library of Congress at Culpeper, Virginia, to ensure that preserved sound recordings included in the National Recording Registry are stored in a proper manner and disseminated to researchers, scholars, and the public as may be appropriate in accordance with title 17, United States Code, and the terms of any agreements between the Librarian and persons who hold copyrights to such recordings.

2 USC 1712.

SEC. 112. PROMOTING ACCESSIBILITY AND PUBLIC AWARENESS OF SOUND RECORDINGS.

The Librarian shall carry out activities to make sound recordings included in the National Recording Registry more broadly accessible for research and educational purposes and to generate public awareness and support of the Registry and the comprehensive national sound recording preservation program established under this subtitle.

Subtitle C—National Recording Preservation Board

2 USC 1721.

SEC. 121. ESTABLISHMENT.

The Librarian shall establish in the Library of Congress a National Recording Preservation Board whose members shall be selected in accordance with the procedures described in section 122.

2 USC 1722.

SEC. 122. APPOINTMENT OF MEMBERS.

(a) SELECTIONS FROM LISTS SUBMITTED BY ORGANIZATIONS.—

(1) IN GENERAL.—The Librarian shall request each organization described in paragraph (2) to submit a list of three candidates qualified to serve as a member of the Board. The Librarian shall appoint one member from each such list, and shall designate from that list an alternate who may attend at Board expense those meetings which the individual appointed to the Board cannot attend.

(2) ORGANIZATIONS DESCRIBED.—The organizations described in this paragraph are as follows:

(A) National Academy of Recording Arts and Sciences (NARAS).

(B) Recording Industry Association of America (RIAA).

(C) Association for Recorded Sound Collections (ARSC).

(D) American Society of Composers, Authors and Publishers (ASCAP).

(E) Broadcast Music, Inc. (BMI).

- (F) Songwriters Association (SESAC).
- (G) American Federation of Musicians (AF of M).
- (H) Music Library Association.
- (I) American Musicological Society.
- (J) National Archives and Record Administration.
- (K) National Association of Recording Merchandisers (NARM).
- (L) Society for Ethnomusicology.
- (M) American Folklore Society.
- (N) Country Music Foundation.
- (O) Audio Engineering Society (AES).
- (P) National Academy of Popular Music.
- (Q) Digital Media Association (DiMA).

(b) **OTHER MEMBERS.**—In addition to the members appointed under subsection (a), the Librarian may appoint not more than five members-at-large. The Librarian shall select an alternate for each member-at-large, who may attend at Board expense those meetings that the member-at-large cannot attend.

(c) **CHAIR.**—The Librarian shall appoint one member of the Board to serve as Chair.

(d) **TERM OF OFFICE.**—

(1) **TERMS.**—The term of each member of the Board shall be 4 years, except that there shall be no limit to the number of terms that any individual member may serve.

(2) **REMOVAL OF MEMBER OF ORGANIZATION.**—The Librarian shall have the authority to remove any member of the Board (or, in the case of a member appointed under subsection (a)(1), the organization that such member represents) if the member or organization over any consecutive 2-year period fails to attend at least one regularly scheduled Board meeting.

(3) **VACANCIES.**—A vacancy in the Board shall be filled in the manner in which the original appointment was made under subsection (a), except that the Librarian may fill the vacancy from a list of candidates previously submitted by the organization or organizations involved. Any member appointed to fill a vacancy shall be appointed for the remainder of the term of the member's predecessor.

SEC. 123. SERVICE OF MEMBERS; MEETINGS.

2 USC 1723.

(a) **REIMBURSEMENT OF EXPENSES.**—Members of the Board shall serve without pay, but may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(b) **CONFLICT OF INTEREST.**—The Librarian shall establish rules and procedures to address any potential conflict of interest between a member of the Board and responsibilities of the Board.

(c) **MEETINGS.**—The Board shall meet at least once each fiscal year. Meetings shall be at the call of the Librarian.

(d) **QUORUM.**—Eleven members of the Board shall constitute a quorum for the transaction of business.

SEC. 124. RESPONSIBILITIES OF BOARD.

2 USC 1724.

(a) **REVIEW AND RECOMMENDATION OF NOMINATIONS FOR NATIONAL RECORDING REGISTRY.**—

(1) **IN GENERAL.**—The Board shall review nominations of sound recordings submitted to it for inclusion in the National Recording Registry and advise the Librarian, as provided in subtitle A, with respect to the inclusion of such recordings

in the Registry and the preservation of these and other sound recordings that are culturally, historically, or aesthetically significant.

(2) **SOURCE OF NOMINATIONS.**—The Board shall consider for inclusion in the National Recording Registry nominations submitted by the general public as well as representatives of sound recording archives and the sound recording industry (such as the guilds and societies representing sound recording artists) and other creative artists.

(b) **STUDY AND REPORT ON SOUND RECORDING PRESERVATION AND RESTORATION.**—The Board shall conduct a study and issue a report on the following issues:

(1) The current state of sound recording archiving, preservation and restoration activities.

(2) Taking into account the research and other activities carried out by or on behalf of the National Audio-Visual Conservation Center at Culpeper, Virginia—

(A) the methodology and standards needed to make the transition from analog “open reel” preservation of sound recordings to digital preservation of sound recordings; and

(B) standards for access to preserved sound recordings by researchers, educators, and other interested parties.

(3) The establishment of clear standards for copying old sound recordings (including equipment specifications and equalization guidelines).

(4) Current laws and restrictions regarding the use of archives of sound recordings, including recommendations for changes in such laws and restrictions to enable the Library of Congress and other nonprofit institutions in the field of sound recording preservation to make their collections available to researchers in a digital format.

(5) Copyright and other laws applicable to the preservation of sound recordings.

2 USC 1725.

SEC. 125. GENERAL POWERS OF BOARD.

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

(b) **SERVICE ON FOUNDATION.**—Two sitting members of the Board shall be appointed by the Librarian and shall serve as members of the board of directors of the National Recording Preservation Foundation, in accordance with section 152403 of title 36, United States Code.

Subtitle D—General Provisions

2 USC 1741.

SEC. 131. DEFINITIONS.

As used in this title:

(1) The term “Librarian” means the Librarian of Congress.

(2) The term “Board” means the National Recording Preservation Board.

(3) The term “sound recording” has the meaning given such term in section 101 of title 17, United States Code.

(4) The term “publication” has the meaning given such term in section 101 of title 17, United States Code.

(5) The term "Registry version" means, with respect to a sound recording, the version of a recording first published or offered for mass distribution whether as a publication or a broadcast, or as complete a version as bona fide preservation and restoration activities by the Librarian, an archivist other than the Librarian, or the copyright legal owner can compile in those cases where the original material has been irretrievably lost or the recording is unpublished.

SEC. 132. STAFF; EXPERTS AND CONSULTANTS.

2 USC 1742.

(a) **STAFF.**—The Librarian may appoint and fix the pay of such personnel as the Librarian considers appropriate to carry out this title.

(b) **EXPERTS AND CONSULTANTS.**—The Librarian may, in carrying out this title, procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum rate of basic pay payable for level 15 of the General Schedule. In no case may a member of the Board (including an alternate member) be paid as an expert or consultant under this section.

SEC. 133. AUTHORIZATION OF APPROPRIATIONS.

2 USC 1743.

There are authorized to be appropriated to the Librarian for each of the first 7 fiscal years beginning on or after the date of the enactment of this Act such sums as may be necessary to carry out this title, except that the amount authorized for any fiscal year may not exceed \$250,000.

TITLE II—NATIONAL RECORDING PRESERVATION FOUNDATION

SEC. 201. NATIONAL RECORDING PRESERVATION FOUNDATION.

(a) **IN GENERAL.**—Part B of subtitle II of title 36, United States Code, is amended by inserting after chapter 1523 the following:

"CHAPTER 1524—NATIONAL RECORDING PRESERVATION FOUNDATION

"Sec.

"152401. Organization.

"152402. Purposes.

"152403. Board of directors.

"152404. Officers and employees.

"152405. Powers.

"152406. Principal office.

"152407. Provision and acceptance of support by Librarian of Congress.

"152408. Service of process.

"152409. Civil action by Attorney General for equitable relief.

"152410. Immunity of United States Government.

"152411. Authorization of appropriations.

"152412. Annual report.

"§ 152401. Organization

"(a) **FEDERAL CHARTER.**—The National Recording Preservation Foundation (in this chapter, the 'corporation') is a federally chartered corporation.

"(b) **NATURE OF CORPORATION.**—The corporation is a charitable and nonprofit corporation and is not an agency or establishment of the United States Government.

“(c) PERPETUAL EXISTENCE.—Except as otherwise provided, the corporation has perpetual existence.

“§ 152402. Purposes

“The purposes of the corporation are to—

“(1) encourage, accept, and administer private gifts to promote and ensure the preservation and public accessibility of the nation's sound recording heritage held at the Library of Congress and other public and nonprofit archives throughout the United States; and

“(2) further the goals of the Library of Congress and the National Recording Preservation Board in connection with their activities under the National Recording Preservation Act of 2000.

“§ 152403. Board of directors

“(a) GENERAL.—The board of directors is the governing body of the corporation.

Deadline.

“(b) MEMBERS AND APPOINTMENT.—(1) The Librarian of Congress (hereafter in this chapter referred to as the ‘Librarian’) is an ex officio nonvoting member of the board. Not later than 90 days after the date of the enactment of this chapter, the Librarian shall appoint the directors to the board in accordance with paragraph (2).

“(2)(A) The board consists of nine directors.

“(B) Each director shall be a United States citizen.

“(C) At least six directors shall be knowledgeable or experienced in sound recording production, distribution, preservation, or restoration, including two who are sitting members of the National Recording Preservation Board. These six directors shall, to the extent practicable, represent diverse points of view from the sound recording community.

“(3) A director is not an employee of the Library of Congress and appointment to the board does not constitute appointment as an officer or employee of the United States Government for the purpose of any law of the United States.

“(4) The terms of office of the directors are 4 years. An individual may not serve more than two consecutive terms.

“(5) A vacancy on the board shall be filled in the manner in which the original appointment was made.

“(c) CHAIR.—The Librarian shall appoint one of the directors as the initial chair of the board for a 2-year term. Thereafter, the chair shall be appointed and removed in accordance with the bylaws of the corporation.

“(d) QUORUM.—The number of directors constituting a quorum of the board shall be established under the bylaws of the corporation.

“(e) MEETINGS.—The board shall meet at the call of the Librarian for regularly scheduled meetings.

“(f) REIMBURSEMENT OF EXPENSES.—Directors shall serve without compensation but may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5.

“(g) LIABILITY OF DIRECTORS.—Directors are not personally liable, except for gross negligence.

“§ 152404. Officers and employees

“(a) SECRETARY OF THE BOARD.—(1) The Librarian shall appoint a Secretary of the Board to serve as executive director of the corporation. The Librarian may remove the Secretary.

“(2) The Secretary shall be knowledgeable and experienced in matters relating to—

“(A) sound recording preservation and restoration activities;

“(B) financial management; and

“(C) fundraising.

“(b) APPOINTMENT OF OFFICERS.—Except as provided in subsection (a) of this section, the board of directors appoints, removes, and replaces officers of the corporation.

“(c) APPOINTMENT OF EMPLOYEES.—Except as provided in subsection (a) of this section, the Secretary appoints, removes, and replaces employees of the corporation.

“(d) STATUS AND COMPENSATION OF EMPLOYEES.—Employees of the corporation (including the Secretary)—

“(1) are not employees of the Library of Congress;

“(2) shall be appointed and removed without regard to the provisions of title 5 governing appointments in the competitive service; and

“(3) may be paid without regard to chapter 51 and subchapter III of chapter 53 of title 5, except that an employee may not be paid more than the annual rate of basic pay for level 15 of the General Schedule under section 5107 of title 5.

“§ 152405. Powers

“(a) GENERAL.—The corporation may—

“(1) adopt a constitution and bylaws;

“(2) adopt a seal which shall be judicially noticed; and

“(3) do any other act necessary to carry out this chapter.

“(b) POWERS AS TRUSTEE.—To carry out its purposes, the corporation has the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

“(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of property or any income from or other interest in property;

“(2) to acquire property or an interest in property by purchase or exchange;

“(3) unless otherwise required by an instrument of transfer, to sell, donate, lease, invest, or otherwise dispose of any property or income from property;

“(4) to borrow money and issue instruments of indebtedness;

“(5) to make contracts and other arrangements with public agencies and private organizations and persons and to make payments necessary to carry out its functions;

“(6) to sue and be sued; and

“(7) to do any other act necessary and proper to carry out the purposes of the corporation.

“(c) ENCUMBERED OR RESTRICTED GIFTS.—A gift, devise, or bequest may be accepted by the corporation even though it is encumbered, restricted, or subject to beneficial interests of private persons, if any current or future interest is for the benefit of the corporation.

“§ 152406. Principal office

“The principal office of the corporation shall be in the District of Columbia. However, the corporation may conduct business throughout the States, territories, and possessions of the United States.

“§ 152407. Provision and acceptance of support by Librarian of Congress

“(a) PROVISION BY LIBRARIAN.—(1) The Librarian may provide personnel, facilities, and other administrative services to the corporation. Administrative services may include reimbursement of expenses under section 152403(f).

“(2) The corporation shall reimburse the Librarian for support provided under paragraph (1) of this subsection. Amounts reimbursed shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing the support.

“(b) ACCEPTANCE BY LIBRARIAN.—The Librarian may accept, without regard to chapters 33 and 51 and subchapter III of chapter 53 of title 5 and related regulations, the services of the corporation and its directors, officers, and employees as volunteers in performing functions authorized under this chapter, without compensation from the Library of Congress.

“§ 152408. Service of process

“The corporation shall have a designated agent to receive service of process for the corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

“§ 152409. Civil action by Attorney General for equitable relief

“The Attorney General may bring a civil action in the United States District Court for the District of Columbia for appropriate equitable relief if the corporation—

“(1) engages or threatens to engage in any act, practice, or policy that is inconsistent with the purposes in section 152402 of this title; or

“(2) refuses, fails, or neglects to carry out its obligations under this chapter or threatens to do so.

“§ 152410. Immunity of United States Government

“The United States Government is not liable for any debts, defaults, acts, or omissions of the corporation. The full faith and credit of the Government does not extend to any obligation of the corporation.

“§ 152411. Authorization of appropriations

“(a) AUTHORIZATION.—There are authorized to be appropriated to the corporation for each of the first 7 fiscal years beginning on or after the date of the enactment of this chapter an amount not to exceed the amount of private contributions (whether in currency, services, or property) made to the corporation by private persons and State and local governments.

“(b) LIMITATION RELATED TO ADMINISTRATIVE EXPENSES.—Except as permitted under section 152407, amounts authorized

under this section may not be used by the corporation for administrative expenses of the corporation, including salaries, travel, transportation, and overhead expenses.

“§ 152412. Annual report

“As soon as practicable after the end of each fiscal year, the corporation shall submit a report to the Librarian for transmission to Congress on the activities of the corporation during the prior fiscal year, including a complete statement of its receipts, expenditures, and investments.”.

(b) CLERICAL AMENDMENT.—The table of chapters for part B of subtitle II of title 36, United States Code, is amended by inserting after the item relating to chapter 1523 the following new item:

“1524. National Recording Preservation Foundation152401”.

Approved November 9, 2000.

LEGISLATIVE HISTORY—H.R. 4846:

CONGRESSIONAL RECORD, Vol. 146 (2000):

July 25, considered and passed House.

Oct. 25, considered and passed Senate, amended.

Nov. 1, House disagreed to Senate amendments. Senate receded from its amendments.