

would be given statutory copyright protection as long as the work is not in the public domain in this country. The vast majority of these works consist of private material that no one is interested in protecting or infringing, but section 303 would still have practical effects for a prodigious body of material already in existence.

Looked at another way, however, section 303 would have a genuinely restrictive effect. Its basic purpose is to substitute statutory for common law copyright for everything now protected at common law, and to substitute reasonable time limits for the perpetual protection now available. In general, the substituted time limits are those applicable to works created after the effective date of the law [Jan. 1, 1978]; for example, an unpublished work written in 1945 whose author dies in 1980 would be protected under the statute from the effective date [Jan. 1, 1978] through 2030 (50 years after the author's death).

A special problem under this provision is what to do with works whose ordinary statutory terms will have expired or will be nearing expiration on the effective date [Jan. 1, 1978]. The committee believes that a provision taking away subsisting common law rights and substituting statutory rights for a reasonable period is fully in harmony with the constitutional requirements of due process, but it is necessary to fix a "reasonable period" for this purpose. Section 303 provides that under no circumstances would copyright protection expire before December 31, 2002, and also attempts to encourage publication by providing 25 years more protection (through 2027) if the work were published before the end of 2002.

#### Editorial Notes

##### AMENDMENTS

2010—Subsec. (b). Pub. L. 111-295 substituted "any musical work, dramatic work, or literary work" for "the musical work".

1998—Subsec. (a). Pub. L. 105-298 substituted "December 31, 2047" for "December 31, 2027" in second sentence.

1997—Pub. L. 105-80 designated existing provisions as subsec. (a) and added subsec. (b).

#### § 304. Duration of copyright: Subsisting copyrights

(a) COPYRIGHTS IN THEIR FIRST TERM ON JANUARY 1, 1978.—(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 67 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 67 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 67 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 67 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 by any person entitled under paragraph (1)(B) or (C) to such further term of 67 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 67 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 AT THE TIME OF THE EFFECTIVE DATE OF THE SONNY BONO COPYRIGHT TERM EXTENSION ACT.—Any copyright still in its renewal term at the time that the Sonny Bono Copyright Term Extension Act becomes effective shall have a copyright term of 95 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 subsection (a)(1)(C) of this section, otherwise than by will, is subject to termination under the following conditions:

(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, 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 there is a widow or widower, in which case the ownership of one-half of the author's interest is divided among them.

(C) The rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of such author's chil-

dren represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(D) In the event that the author's widow or widower, children, and grandchildren are not living, the author's executor, administrator, personal representative, or trustee shall own the author's entire termination interest.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of fifty-six years from the date copyright was originally secured, or beginning on January 1, 1978, whichever is later.

(4) The termination shall be effected by serving an advance notice in writing upon the grantee or the grantee's successor in title. In the case of a grant executed by a person or persons other than the author, the notice shall be signed by all of those entitled to terminate the grant under clause (1) of this subsection, or by their duly authorized agents. In the case of a grant executed by one or more of the authors of the work, the notice as to any one author's share shall be signed by that author or his or her duly authorized agent or, if that author is dead, by the number and proportion of the owners of his or her termination interest required under clauses (1) and (2) of this subsection, or by their duly authorized agents.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, or, in the case of a termination under subsection (d), within the five-year period specified by subsection (d)(2), and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(6) In the case of a grant executed by a person or persons other than the author, all rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to all of those entitled to terminate the grant under clause (1) of this subsection. In the case of a grant executed by one or more of the authors of the work, all of a particular author's rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to that author or, if that author is dead, to the persons owning his or her termination interest under clause (2) of this subsection, including those owners who did not join in signing the notice of termination under clause (4) of this subsection. In all cases the reversion of rights is subject to the following limitations:

(A) A derivative work prepared under authority of the grant before its termination

may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyrighted work covered by the terminated grant.

(B) The future rights that will revert upon termination of the grant become vested on the date the notice of termination has been served as provided by clause (4) of this subsection.

(C) Where the author's rights revert to two or more persons under clause (2) of this subsection, they shall vest in those persons in the proportionate shares provided by that clause. In such a case, and subject to the provisions of subclause (D) of this clause, a further grant, or agreement to make a further grant, of a particular author's share with respect to any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under this clause, as are required to terminate the grant under clause (2) of this subsection. Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under this subclause, including those who did not join in signing it. If any person dies after rights under a terminated grant have vested in him or her, that person's legal representatives, legatees, or heirs at law represent him or her for purposes of this subclause.

(D) A further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is made after the effective date of the termination. As an exception, however, an agreement for such a further grant may be made between the author or any of the persons provided by the first sentence of clause (6) of this subsection, or between the persons provided by subclause (C) of this clause, and the original grantee or such grantee's successor in title, after the notice of termination has been served as provided by clause (4) of this subsection.

(E) Termination of a grant under this subsection affects only those rights covered by the grant that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(F) Unless and until termination is effected under this subsection, the grant, if it does not provide otherwise, continues in effect for the remainder of the extended renewal term.

(d) **TERMINATION RIGHTS PROVIDED IN SUBSECTION (C) WHICH HAVE EXPIRED ON OR BEFORE THE EFFECTIVE DATE OF THE SONNY BONO COPYRIGHT TERM EXTENSION ACT.**—In the case of any copyright other than a work made for hire, subsisting in its renewal term on the effective date of the Sonny Bono Copyright Term Extension Act 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 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 subsections (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 Sonny Bono Copyright Term Extension Act.

(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.

(Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2573; Pub. L. 102-307, title I, § 102(a), (d), June 26, 1992, 106 Stat. 264, 266; Pub. L. 105-80, § 12(a)(9), Nov. 13, 1997, 111 Stat. 1535; Pub. L. 105-298, title I, §§ 102(d)(1), 103, Oct. 27, 1998, 112 Stat. 2827, 2829; Pub. L. 107-273, div. C, title III, § 13210(10), Nov. 2, 2002, 116 Stat. 1910.)

#### HISTORICAL AND REVISION NOTES

HOUSE REPORT NO. 94-1476

The arguments in favor of lengthening the duration of copyright apply to subsisting as well as future copyrights. The bill's basic approach is to increase the present 56-year term to 75 years in the case of copyrights subsisting in both their first and their renewal terms.

**Copyrights in Their First Term.** Subsection (a) of section 304 reenacts and preserves the renewal provision, now in Section 24 of the statute [section 24 of former title 17], for all of the works presently in their first 28-year term. A great many of the present expectancies in these cases are the subject of existing contracts, and it would be unfair and immensely confusing to cut off or alter these interests. Renewal registration will be required during the 28th year of the copyright but the length of the renewal term will be increased from 28 to 47 years.

Although the bill preserves the language of the present renewal provision without any change in substance, the Committee intends that the reference to a "posthumous work" in this section has the meaning given to it in *Bartok v. Boosey & Hawkes, Inc.*, 523 F.2d 941 (2d Cir. 1975)—one as to which no copyright assignment or other contract for exploitation of the work has occurred during an author's lifetime, rather than one which is simply first published after the author's death.

**Copyrights in Their Renewal Term.** Renewed copyrights that are subsisting in their second term at any time during the period between December 31, 1976, and December 31, 1977, inclusive, would be extended under section 304(b) to run for a total of 75 years. This provision would add another 19 years to the duration of any renewed copyright whose second term started during the 28 years immediately preceding the effective date of the act (January 1, 1978). In addition, it would extend by varying lesser amounts the duration of renewal copyrights already extended under Public Laws 87-668, 89-142, 90-141, 90-416, 91-147, 91-555, 92-170, 92-566, and 93-573, all of which would otherwise expire on December 31, 1976. The subsection would also extend the duration of renewal copyrights whose second 28-year term is scheduled to expire during 1977. In none of these cases, however, would the total terms of copyright for the work be longer than 75 years.

Subsection (b) also covers the special situation of a subsisting first-term copyright that becomes eligible for renewal registration during the year before the act comes into effect. If a renewal registration is not made before the effective date [Jan. 1, 1978], the case is governed by the provisions of section 304(a) [subsec. (a) of this section]. If a renewal registration is made during the year before the new law takes effect, however, the

copyright would be treated as if it were already subsisting in its second term and would be extended to the full period of 75 years without the need for further renewal.

**Termination of Grants Covering Extended Term.** An issue underlying the 19-year extension of renewal terms under both subsections (a) and (b) of section 304 [subsecs. (a) and (b) of this section] is whether, in a case where their rights have already been transferred, the author or the dependents of the author should be given a chance to benefit from the extended term. The arguments for granting rights of termination are even more persuasive under section 304 than they are under section 203; the extended term represents a completely new property right, and there are strong reasons for giving the author, who is the fundamental beneficiary of copyright under the Constitution, an opportunity to share in it.

Subsection (c) of section 304 is a close but not exact counterpart of section 203. In the case of either a first-term or renewal copyright already subsisting when the new statute becomes effective [Jan. 1, 1978], any grant of rights covering the renewal copyright in the work, executed before the effective date [Jan. 1, 1978], may be terminated under conditions and limitations similar to those provided in section 203. Except for transfers and licenses covering renewal copyrights already extended under Public Laws 87-668, 89-142, 90-141, 90-416, 91-147, 91-555, 92-170, 92-566, and 93-573, which would become subject to termination immediately upon the coming into effect of the revised law, the 5-year period during which termination could be made effective would start 56 years after copyright was originally secured.

The bill distinguishes between the persons who can terminate a grant under section 203 and those entitled to terminate a grant covering an extended term under section 304. Instead of being limited to transfers and licenses executed by the author, the right of termination under section 304(c) also extends to grants executed by those beneficiaries of the author who can claim renewal under the present law: his or her widow or widower, children, executors, or next of kin.

There is good reason for this difference. Under section 203, an author's widow or widower and children are given rights of termination if the author is dead, but these rights apply only to grants by the author, and any effort by a widow, widower, or child to transfer contingent future interests under a termination would be ineffective. In contrast, under the present renewal provisions, any statutory beneficiary of the author can make a valid transfer or license of future renewal rights, which is completely binding if the author is dead and the person who executed the grant turns out to be the proper renewal claimant. Because of this, a great many contingent transfers of future renewal rights have been obtained from widows, widowers, children, and next of kin, and a substantial number of these will be binding. After the present 28-year renewal period has ended, a statutory beneficiary who has signed a disadvantageous grant of this sort should have the opportunity to reclaim the extended term.

As explained above in connection with section 203, the bill adopts the principle that, where a transfer or license by the author is involved, termination may be effected by a per stirpes majority of those entitled to terminate, and this principle also applies to the ownership of rights under a termination and to the making of further grants of reverted rights. In general, this principle has also been adopted with respect to the termination of rights under an extended renewal copyright in section 304, but with several differences made necessary by the differences between the legal status of transfers and licenses made after the effective date of the new law [Jan. 1, 1978] (governed by section 203) and that of grants of renewal rights made earlier and governed by section 304(c). The following are the most important distinctions between the termination rights under the two sections:

1. *Joint Authorship.*—Under section 304, a grant of renewal rights executed by joint authors during the

first term of copyright would be effective only as to those who were living at the time of renewal; where any of them are dead, their statutory beneficiaries are entitled to claim the renewal independently as a new estate. It would therefore be inappropriate to impose a requirement of majority action with respect to transfers executed by two or more joint authors.

2. *Grants Not Executed by Author.*—Section 304(c) adopts the majority principle underlying the amendments of section 203 [section 203 of this title] with respect to the termination rights of a dead author's widow or widower and children. There is much less reason, as a matter of policy, to apply this principle in the case of transfers and licenses of renewal rights executed under the present law by the author's widow, widower, children, executors, or next of kin, and the practical arguments against doing so are conclusive. It is not clear how the shares of a class of renewal beneficiaries are to be divided under the existing law, and greater difficulties would be presented if any attempt were made to apply the majority principle to further beneficiaries in cases where one or more of the renewal beneficiaries are dead. Therefore, where the grant was executed by a person or persons other than the author, termination can be effected only by the unanimous action of the survivors of those who executed it.

3. *Further Grants.*—The reason against adopting a principle of majority action with respect to the right to terminate grants by joint authors and grants not executed by the author apply equally with respect to the right to make further grants under section 304(c). The requirement for majority action in clause (6)(C) is therefore confined to cases where the rights under a grant by the author have reverted to his or her widow or widower, or children, or both. Where the extended term reverts to joint authors or to a class of renewal beneficiaries who have joined in executing a grant, their rights would be governed by the general rules of tenancy in common; each coowner would have an independent right to sell his share, or to use or license the work subject to an accounting.

Nothing contained in this section or elsewhere in this legislation is intended to extend the duration of any license, transfer, or assignment made for a period of less than fifty-six years. If, for example, an agreement provides an earlier termination date or lesser duration, or if it allows the author the right of cancelling or terminating the agreement under certain circumstances, the duration is governed by the agreement. Likewise, nothing in this section or legislation is intended to change the existing state of the law of contracts concerning the circumstances in which an author may terminate a license, transfer or assignment.

Section 304(c)(6)(E) provides that, unless and until termination is effected under this section, the grant, "if it does not provide otherwise," continues for the term of copyright. This section means that, if the agreement does not contain provisions specifying its term or duration, and the author has not terminated the agreement under this section, the agreement continues for the term of the copyright, subject to any right of termination under circumstances which may be specified therein. If, however, an agreement does contain provisions governing its duration—for example, a term of sixty years—and the author has not exercised his or her right of termination under the statute, the agreement will continue according to its terms—in this example, for only sixty years. The quoted language is not to be construed as requiring agreements to reserve the right of termination.

#### Editorial Notes

##### REFERENCES IN TEXT

The Sonny Bono Copyright Term Extension Act, referred to in subsecs. (b) and (d), is title I of Pub. L. 105-298, Oct. 27, 1998, 112 Stat. 2827. The effective date of the Act is the date of enactment of Pub. L. 105-298,

which was approved Oct. 27, 1998. For complete classification of this Act to the Code, see Short Title of 1998 Amendment note set out under section 101 of this title and Tables.

#### AMENDMENTS

2002—Subsec. (c)(2)(A) to (C). Pub. L. 107-273, in subpars. (A) to (C), substituted “The” for “the” and, in subpars. (A) and (B), substituted period for semicolon at end.

1998—Subsec. (a)(1)(B), (C). Pub. L. 105-298, § 102(d)(1)(A)(i), substituted “67” for “47” in concluding provisions.

Subsec. (a)(2)(A), (B). Pub. L. 105-298, § 102(d)(1)(A)(ii), substituted “67” for “47” in introductory provisions.

Subsec. (a)(3)(A)(i), (B). Pub. L. 105-298, § 102(d)(1)(A)(iii), substituted “67” for “47”.

Subsec. (b). Pub. L. 105-298, § 102(d)(1)(B), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: “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.”

Subsec. (c)(2). Pub. L. 105-298, § 103(1), struck out “by his widow or her widower and his or her children or grandchildren” after “exercised,” in introductory provisions.

Subsec. (c)(2)(D). Pub. L. 105-298, § 103(2), added subpar. (D).

Subsec. (c)(4)(A). Pub. L. 105-298, § 102(d)(1)(C), inserted “or, in the case of a termination under subsection (d), within the five-year period specified by subsection (d)(2),” before “and the notice”.

Subsec. (d). Pub. L. 105-298, § 102(d)(1)(D), added subsec. (d).

1997—Subsec. (c). Pub. L. 105-80 substituted “subsection (a)(1)(C)” for “the subsection (a)(1)(C)” in introductory provisions.

1992—Subsec. (a). Pub. L. 102-307, § 102(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “COPYRIGHTS IN THEIR FIRST TERM ON JANUARY 1, 1978.—Any copyright, the first term of which is subsisting on January 1, 1978, shall endure for twenty-eight years from the date it was originally secured: *Provided*, That in the case of any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or of 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 forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further*, That 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, the author of such work, if still living, or the widow, widower, or children of the author, if the author be not living, or if such author, widow, widower, or children be not living, then the author's executors, or in the absence of a will, his or her next of kin shall be entitled to a renewal and extension of the copyright in such work for a further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further*, That in default of the registration of such application for renewal and extension, the copyright in any work shall terminate at the expiration of twenty-eight years from the date copyright was originally secured.”

Subsec. (c). Pub. L. 102-307, § 102(d), substituted “subsection (a)(1)(C)” for “second proviso of subsection (a)” in introductory provisions.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-307 effective June 26, 1992, but applicable only to copyrights secured between January 1, 1964, and December 31, 1977, and not affecting court proceedings pending on June 26, 1992, with copyrights secured before January 1, 1964, governed by section 304(a) of this title as in effect on the day before June 26, 1992, except each reference to forty-seven years in such provisions deemed to be 67 years, see section 102(g) of Pub. L. 102-307, as amended, set out as a note under section 101 of this title.

##### EFFECTIVE DATE

Subsec. (b) of this section effective Oct. 19, 1976, see section 102 of Pub. L. 94-553, set out as a note preceding section 101 of this title.

##### LEGAL EFFECT OF RENEWAL OF COPYRIGHT UNCHANGED

Pub. L. 102-307, title I, § 102(c), June 26, 1992, 106 Stat. 266, as amended by Pub. L. 105-298, title I, § 102(d)(2)(A), Oct. 27, 1998, 112 Stat. 2828, provided that: “The renewal and extension of a copyright for a further term of 67 years provided for under paragraphs (1) and (2) of section 304(a) of title 17, United States Code[,] shall have the same effect with respect to any grant, before the effective date of the Sonny Bono Copyright Term Extension Act [Oct. 27, 1998], of a transfer or license of the further term as did the renewal of a copyright before the effective date of the Sonny Bono Copyright Term Extension Act under the law in effect at the time of such grant.”

##### AD INTERIM COPYRIGHTS SUBSISTING OR CAPABLE OF BEING SECURED UNDER PREDECESSOR PROVISIONS

Pub. L. 94-553, title I, § 107, Oct. 19, 1976, 90 Stat. 2600, provided that: “In the case of any work in which an ad interim copyright is subsisting or is capable of being secured on December 31, 1977, under section 22 of title 17 as it existed on that date, copyright protection is hereby extended to endure for the term or terms provided by section 304 of title 17 as amended by the first section of this Act [this section].”

##### COPYRIGHT GRANTED TO “SCIENCE AND HEALTH WITH KEY TO THE SCRIPTURES” FOR TERM OF 75 YEARS

Private Law 92-60, Dec. 15, 1971, 85 Stat. 857, provided: “That, any provision of law to the contrary notwithstanding, copyright is hereby granted to the trustees under the will of Mary Baker Eddy, their successors, and assigns, in the work ‘Science and Health with Key to the Scriptures’ (entitled also in some editions ‘Science and Health’ or ‘Science and Health; with a Key to the Scriptures’), by Mary Baker Eddy, including all editions thereof in English and translation heretofore published, or hereafter published by or on behalf of said trustees, their successors or assigns, for a term of seventy-five years from the effective date of this Act [Dec. 15, 1971] or from the date of first publication, whichever is later. All copies of the protected work hereafter published are to bear notice of copyright, and all new editions hereafter published are to be registered in the Copyright Office, in accordance with the provisions of title 17 of the United States Code or any revision or recodification thereof. The copyright owner shall be entitled to all rights and remedies provided to copyright owners generally by law: *Provided, however*, That no liability shall attach under this Act for lawful uses made or acts done prior to the effective date of this Act in connection with said work, or in respect to the continuance for one year subsequent to such date of any business undertaking or enterprise lawfully undertaken prior to such date involving expenditure or contractual obligation in connection with the exploitation, production, reproduction or circulation of said work. This Act shall be effective upon enactment.”

##### EXTENSION OF RENEWAL TERMS UNDER PRIOR LAW

Pub. L. 93-573, title I, § 104, Dec. 31, 1974, 88 Stat. 1873, provided that in any case in which the renewal term of

a copyright subsisting in any work on Dec. 31, 1974, or the term thereof as extended by Public Law 87-668, by Public Law 89-142, by Public Law 90-141, by Public Law 90-416, by Public Law 91-417, by Public Law 91-555, by Public Law 92-170, or by Public Law 92-556 (or by all or certain of said laws) [set out below], would expire prior to Dec. 31, 1976, such term was continued until Dec. 31, 1976.

Pub. L. 92-566, Oct. 25, 1972, 86 Stat. 1181, provided that in any case in which the renewal term of a copyright subsisting in any work on Oct. 25, 1972, or the term thereof as extended by Public Law 87-668, by Public Law 89-142, by Public Law 90-141, by Public Law 90-416, by Public Law 91-147, or by Public Law 91-555, or by Public Law 92-170 (or by all or certain of said laws) [set out below], would expire prior to Dec. 31, 1974, such term was continued until Dec. 31, 1974.

Pub. L. 92-170, Nov. 24, 1971, 85 Stat. 490, provided that in any case in which the renewal term of a copyright subsisting in any work on Nov. 24, 1971, or the term thereof as extended by Public Law 87-668, by Public Law 89-142, by Public Law 90-141, by Public Law 90-416, by Public Law 91-147, or by Public Law 91-555 (or by all or certain of said laws), would expire prior to Dec. 31, 1972, such term was continued until Dec. 31, 1972.

Pub. L. 91-555, Dec. 17, 1970, 84 Stat. 1441, provided that in any case in which the renewal term of a copyright subsisting in any work on Dec. 17, 1970, or the term thereof as extended by Public Law 87-668, by Public Law 89-142, by Public Law 90-141, by Public Law 90-416, or by Public Law 91-147 (or by all or certain of said laws) [set out below], would expire prior to Dec. 31, 1971, such term was continued until Dec. 31, 1971.

Pub. L. 91-147, Dec. 16, 1969, 83 Stat. 360, provided that in any case in which the renewal term of a copyright subsisting in any work on Dec. 16, 1969, or the term thereof as extended by Public Law 87-668, by Public Law 89-142, by Public Law 90-141, or by Public Law 90-416 (or by all or certain of said laws) [set out below], would expire prior to Dec. 31, 1970, such term was continued until Dec. 31, 1970.

Pub. L. 90-416, July 23, 1968, 82 Stat. 397, provided that in any case in which the renewal term of a copyright subsisting in any work on July 23, 1968, or the term thereof as extended by Public Law 87-668, by Public Law 89-142, or by Public Law 90-141 (or by all or certain of said laws) [set out below], would expire prior to Dec. 31, 1969, such term was continued until Dec. 31, 1969.

Pub. L. 90-141, Nov. 16, 1967, 81 Stat. 464, provided that in any case in which the renewal term of a copyright subsisting in any work on Nov. 16, 1967, or the term thereof as extended by Public Law 87-668, or by Public Law 89-142 (or by either or both of said laws) [set out below], would expire prior to Dec. 31, 1968, such term was continued until Dec. 31, 1968.

Pub. L. 89-142, Aug. 28, 1965, 79 Stat. 581, provided that in any case in which the renewal term of a copyright subsisting in any work on Aug. 28, 1965, or the term thereof as extended by Public Law 87-668 [set out below], would expire prior to Dec. 31, 1967, such term was continued until Dec. 31, 1967.

Pub. L. 87-668, Sept. 19, 1962, 76 Stat. 555, provided that in any case in which the renewal term of a copyright subsisting in any work on Sept. 19, 1962, would expire prior to Dec. 31, 1965, such term was continued until Dec. 31, 1965.

### § 305. Duration of copyright: Terminal date

All terms of copyright provided by sections 302 through 304 run to the end of the calendar year in which they would otherwise expire.

(Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2576.)

#### HISTORICAL AND REVISION NOTES

##### HOUSE REPORT NO. 94-1476

Under section 305, which has its counterpart in the laws of most foreign countries, the term of copyright

protection for a work extends through December 31 of the year in which the term would otherwise have expired. This will make the duration of copyright much easier to compute, since it will be enough to determine the year, rather than the exact date, of the event from which the term is based.

Section 305 applies only to “terms of copyright provided by sections 302 through 304,” which are the sections dealing with duration of copyright. It therefore has no effect on the other time periods specified in the bill; and, since they do not involve “terms of copyright,” the periods provided in section 304(c) with respect to termination of grants are not affected by section 305.

The terminal date section would change the duration of subsisting copyrights under section 304 by extending the total terms of protection under subsections (a) and (b) to the end of the 75th year from the date copyright was secured. A copyright subsisting in its first term on the effective date of the act [Jan. 1, 1978] would run through December 31 of the 28th year and would then expire unless renewed. Since all copyright terms under the bill expire on December 31, and since section 304(a) requires that renewal be made “within one year prior to the expiration of the original term of copyright,” the period for renewal registration in all cases will run from December 31 through December 31.

A special situation arises with respect to subsisting copyrights whose first 28-year term expires during the first year after the act comes into effect. As already explained in connection with section 304(b), if a renewal registration for a copyright of this sort is made before the effective date [Jan. 1, 1978], the total term is extended to 75 years without the need for a further renewal registration. But, if renewal has not yet been made when the act becomes effective [Jan. 1, 1978], the period for renewal registration may in some cases be extended. If, as the bill provides, the act becomes effective on January 1, 1978, a copyright that was originally secured on September 1, 1950, could have been renewed by virtue of the present statute between September 1, 1977, and December 31, 1977; if not, it can still be renewed under section 304(a) of the new act between January 1, 1978, and December 31, 1978.

## CHAPTER 4—COPYRIGHT NOTICE, DEPOSIT, AND REGISTRATION

- |              |   |
|--------------|---|
| Sec.<br>401. | Notice of copyright: Visually perceptible copies.                               |
| 402.         | Notice of copyright: Phonorecords of sound recordings.                          |
| 403.         | Notice of copyright: Publications incorporating United States Government works. |
| 404.         | Notice of copyright: Contributions to collective works.                         |
| 405.         | Notice of copyright: Omission of notice on certain copies and phonorecords.     |
| 406.         | Notice of copyright: Error in name or date on certain copies and phonorecords.  |
| 407.         | Deposit of copies or phonorecords for Library of Congress.                      |
| 408.         | Copyright registration in general.  |
| 409.         | Application for copyright registration.   |
| 410.         | Registration of claim and issuance of certificate.                              |
| 411.         | Registration and civil infringement actions.                                    |
| 412.         | Registration as prerequisite to certain remedies for infringement.              |

### Editorial Notes

#### AMENDMENTS

2008—Pub. L. 110-403, title I, § 101(b)(2), Oct. 13, 2008, 122 Stat. 4258, inserted “civil” before “infringement” in item 411.

1988—Pub. L. 100-568, §§ 7(g), 9(b)(2), Oct. 31, 1988, 102 Stat. 2859, inserted in items 405 and 406 “on certain cop-