Changes in Existing Law

Section 102 of the Sonny Bono Copyright Term Extension Act, set out against the sections of title 17 it amends.

Coding: words ~~struck through~~ are deletions; words underlined are additions. Matter in which no change is made is printed in roman.

The Sonny Bono Copyright Term Extension Act was signed on October 27, 1998. Its section 102 lengthened every term in chapter 3 of title 17 by twenty years: life of the author and fifty years became life and seventy, the seventy-five years from publication for a work made for hire became ninety-five, and the hundred years from creation became one hundred and twenty.

The Act makes these changes the way most federal statutes do, by amendment: it names the words to strike and the words to insert, and it never prints the section it changes. A reader of the bill alone cannot see the law it leaves behind. This print sets the amending text first, then the sections of the Code as they stood in 1997 with each change marked in place, and last the whole of section 302 as amended.

THE AMENDING TEXT

Subsection (b) of section 102 amends section 302 of title 17, the basic term for works created on or after January 1, 1978. It reads:

Sec. 102(b) · Section 302 of title 17, United States Code, is amended—

(1) in subsection (a) by striking “fifty” and inserting “70”;
(2) in subsection (b) by striking “fifty” and inserting “70”;

(3) in subsection (c) in the first sentence— (A) by striking "seventy-five" and inserting "95"; and (B) by striking "one hundred" and inserting "120"; and
(4) in subsection (e) in the first sentence— (A) by striking "seventy-five" and inserting "95"; (B) by striking "one hundred" and inserting "120"; and (C) by striking "fifty" each place it appears and inserting "70".

Subsection (c) changes one date in section 303, and subsection (d) amends section 304, in part by striking its subsection (b) and writing a new one in its place.

TITLE 17, UNITED STATES CODE

§ 302. Duration of copyright: Works created on or after January 1, 1978

(a) In General.—Copyright in a work created on or after January 1, 1978, subsists from its creation and, except as provided by the following subsections, endures for a term consisting of the life of the author and ~~fifty~~ 70 years after the author's death.

(b) Joint Works.—In the case of a joint work prepared by two or more authors who did not work for hire, the copyright endures for a term consisting of the life of the last surviving author and ~~fifty~~ 70 years after such last surviving author's death.

(c) Anonymous Works, Pseudonymous Works, and Works Made for Hire.—In the case of an anonymous work, a pseudonymous work, or a work made for hire, the copyright endures for a term of ~~seventy-five~~ 95 years from the year of its first publication, or a term of ~~one hundred~~ 120 years from the year of its creation, whichever expires first. If, before the end of such term, the identity of one or more of the authors of an anonymous or pseudonymous work is revealed in the records of a registration made for that work under subsections (a) or (d) of section 408, or in the records provided by this subsection, the copyright in the work endures for the term specified by subsection (a) or (b), based on the life of the author or authors whose identity has been revealed.

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(e) PRESUMPTION AS TO AUTHOR'S DEATH.—After a period of ~~seventy-five~~ 95 years from the year of first publication of a work, or a period of ~~one hundred~~ 120 years from the year of its creation, whichever expires first, any person who obtains from the Copyright Office a certified report that the records provided by subsection (d) disclose nothing to indicate that the author of the work is living, or died less than ~~fifty~~ 70 years before, is entitled to the benefits of a presumption that the author has been dead for at least ~~fifty~~ 70 years. Reliance in good faith upon this presumption shall be a complete defense to any action for infringement under this title.

§ 303. Duration of copyright: Works created but not published or copyrighted before January 1, 1978

(a) Copyright in a work created before January 1, 1978, but not theretofore in the public domain or copyrighted, subsists from January 1, 1978, and endures for the term provided by section 302. In no case, however, shall the term of copyright in such a work expire before December 31, 2002; and, if the work is published on or before December 31, 2002, the term of copyright shall not expire before December 31, ~~2027~~ 2047.

§ 304. Duration of copyright: Subsisting copyrights

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(b) ~~COPYRIGHTS IN THEIR RENEWAL TERM OR REGISTERED FOR RENEWAL BEFORE JANUARY 1, 1978.—The duration of any copyright, the renewal term of which is subsisting at any time between December 31, 1976, and December 31, 1977, inclusive, or for which renewal registration is made between December 31, 1976, and December 31, 1977, inclusive, is extended to endure for a term of seventy-five years from the date copyright was originally secured.~~ 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.

SECTION 302 AS AMENDED

Read with the amendments made, section 302 stands as follows. Subsection (d), which the Act left alone, is printed with the others, so the box can be read as the law in force.

§ 302 · WORKS CREATED ON OR AFTER JANUARY 1, 1978

(a) In General.—Copyright in a work created on or after January 1, 1978, subsists from its creation and, except as provided by the following subsections, endures for a term consisting of the life of the author and 70 years after the author's death.

(b) Joint Works.—In the case of a joint work prepared by two or more authors who did not work for hire, the copyright endures for a term consisting of the life of the last surviving author and 70 years after such last surviving author's death.

(c) Anonymous Works, Pseudonymous Works, and Works Made for Hire.—In the case of an anonymous work, a pseudonymous work, or a work made for hire, the copyright endures for a term of 95 years from the year of its first publication, or a term of 120 years from the year of its creation, whichever expires first. If, before the end of such term, the identity of one or more of the authors of an anonymous or pseudonymous work is revealed in the records of a registration made for that work under subsections (a) or (d) of section 408, or in the records provided by this subsection, the copyright in the work endures for the term specified by subsection (a) or (b), based on the life of the author or authors whose identity has been revealed.

(d) Records Relating to Death of Authors.—Any person having an interest in a copyright may at any time record in the Copyright Office a statement of the date of death of the author of the copyrighted work, or a statement that the author is still living on a particular date. The statement shall identify the person filing it, the nature of that person's interest, and the source of the information recorded, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation.

(e) Presumption as to Author's Death.—After a period of 95 years from the year of first publication of a work, or a period of 120 years from the year of its creation, whichever expires first, any person who obtains from the Copyright Office a certified report that the records provided by subsection (d) disclose nothing to indicate that the author of the work is living, or died less than 70 years before, is entitled to the benefits of a presumption that the author has been dead for at least 70 years. Reliance in good faith upon this presumption shall be a complete defense to any action for infringement under this title.

The Supreme Court upheld the extension in *Eldred v. Ashcroft*, 537 U.S. 186 (2003). Because the Act also added twenty years to works already under copyright, no published work entered the public domain in the United States by expiry of its term until January 1, 2019, when the books, songs and films of 1923 came out of copyright.

Set in Source Serif 4 and Source Sans 3 (SIL Open Font License) · Text: Pub. L. 105-298, 112 Stat. 2827, and 17 U.S.C. §§ 302–304 as in force in 1997, works of the United States Government in the public domain; subsections (c) and (d) of section 302 are shortened by their last sentences · Editor's notes: CC BY 4.0.