

Extension of Copyright Terms

This circular will inform you of the provisions in the copyright statute affecting the duration of subsisting copyrights and give you some information with examples illustrating what these provisions mean. For works copyrighted for the first time on or after January 1, 1978, the statutory provisions governing the duration of protection are quite different and are not included in this circular. For general information about duration of copyright under the current law, request Circular 15A, *Duration of Copyright*.

Effect of 1976 Copyright Law with Amendments of 1992 and 1998

The Copyright Act of October 1976 (Public Law 94-553, 90 Stat. 2541, amending title 17 of the United States Code), effective January 1, 1978, has been amended to extend the term of copyright on two subsequent occasions with the passage of the Copyright Amendments Act of 1992 (Public Law 102-307, 106 Stat. 266, amending section 304 of title 17 of the United States Code), and the Sonny Bono Copyright Term Extension Act of 1998 (Public Law 105-298, 112 Stat. 2827, amending chapter 3 of title 17 of the United States Code).

Public Law 102-307, enacted on June 26, 1992, amended the copyright law to make renewal automatic and renewal registration optional for works originally copyrighted between January 1, 1964, and December 31, 1977.

Public Law 105-298, enacted on October 27, 1998, added an additional 20 years to the overall term of copyright protection.

- *Copyrights already in their second term on January 1, 1978:* The duration of the copyright term has automatically been prolonged to last for a total of 95 years. No further renewal registration is necessary.
- *Copyrights in their first term on January 1, 1978:* Renewal registration was still necessary to obtain the second term for works copyrighted between January 1, 1950, and December 31, 1963. Renewal registration is optional for works copyrighted between January 1, 1964, and December 31, 1977. In both cases, the renewal copyright is longer than the term in effect before 1978. The renewal term extends the copyright for a full term of 95 years.

Copyrights in Their Second Term: Automatic Extension of Duration

Renewed Copyrights Automatically Extended to Maximum of 95 Years

Under the statute, copyrights that had already been renewed and were in their *second term at any time* between December 31, 1976, and December 31, 1977, inclusive, were automatically extended in duration. The total length of these

copyrights is now 95 years from the end of the year in which they were originally secured.

Example: A work that was first copyrighted on April 10, 1923, and renewed between April 10, 1950, and April 10, 1951, would formerly have fallen into the public domain after April 10, 1979. The current law extends this copyright through the end of 2018.

These second-term copyrights cannot be renewed again. Under the law, their extension to the maximum 95-year term is automatic and requires no action in the Copyright Office.

A Special Situation: Copyrights Registered for Renewal Between December 31, 1976, and December 31, 1977

The automatic extension also applied to copyrights that were the subject of a renewal registration between December 31, 1976, and December 31, 1977, even though their second term was not scheduled to commence until sometime in 1978.

Example: A work was first copyrighted on July 29, 1950, and a renewal registration was made on September 1, 1977. The second term of copyright was automatically extended through the end of 2045 without the need of any further renewal.

Another Special Situation: Copyrights More Than 56 Years Old

The automatic extension applies not only to copyrights less than 56 years old but also to older copyrights that have previously been extended in duration under a series of Congressional enactments beginning in 1962.¹ As in the case of all other copyrights subsisting in their second term between December 31, 1976, and December 31, 1977, inclusive, these copyrights will expire at the end of the calendar year in which the 95th anniversary of the original date of copyright occurs, so long as the copyright was still in its renewal phase at the time Public Law 105-298 became effective.²

Example: A work that was first entered for copyright on October 5, 1907, and renewed in 1935, would formerly have fallen into the public domain after October 5, 1963. The first Act extended the copyright to December 31, 1965; the second Act extended it to December 31, 1967; the third Act extended it to December 31, 1968; the fourth Act extended it to December 31, 1969; the fifth Act extended it to December 31, 1970; the sixth Act extended it to December 31, 1971; the seventh Act extended it to December 31, 1972; the eighth Act extended it to December 31, 1974; the ninth Act extended it to December 31, 1976, and the Copyright Act of 1976 finally extended the copyright through the end of 1982 (75 years

from the end of the year in which the copyright was originally secured).

Copyrights Secured Between January 1, 1950, and December 31, 1963: Renewal Was Necessary

Copyrights whose first 28-year term of copyright was secured between January 1, 1950, and December 31, 1963, including works protected in their first term under the Universal Copyright Convention, still had to be renewed within strict time limits in order to receive the maximum statutory duration. U.S. adherence to the Berne Convention did not alter this requirement. Renewal registration had to be made within a year period beginning on December 31 of the 27th year of the copyright and running through December 31 of the following year.

If a valid renewal registration was made at the proper time, the second term lasts for 67 years. This is 39 years longer than the 28-year renewal term provided under the 1909 law and makes the two terms of protection for the renewed copyright last for a total of 95 years. However, if renewal registration was *not* made within the statutory time limits, these copyrights expired at the end of their first terms and protection was *lost permanently*.

Copyrights Secured Between January 1, 1964, and December 31, 1977

The amendment to the copyright law enacted June 26, 1992, makes renewal registration optional, and the amendment enacted October 27, 1998, further extends the renewal term to 67 years. The copyright is still divided between a 28-year original term and a 67-year renewal term, but the renewal term automatically vests on December 31st of the 28th year. A renewal registration is not required to secure the renewal copyright. Certain benefits accrue to making renewal registrations, and the Copyright Office continues to accept renewal applications. See Circular 15, *Renewal of Copyright*, for a discussion of the benefits of making renewal registration.

Other Statutory Provisions Affecting Subsisting Copyrights

Year-End Expiration of Copyright Terms

The law provides that all terms of copyright will run through the end of the calendar year in which they would otherwise expire. This affects the duration of all copyrights, including

those subsisting in either their first or second term in January 1, 1978. For works eligible for renewal registration, the renewal filing period begins on December 31st of the 27th year of the copyright term and ends on December 31st of the 28th year of the copyright term.

Termination of Grants

For works already under statutory copyright on January 1, 1978, the law also contains special provisions allowing the termination of any grant of rights made by an author and covering any part of the period (usually 39 years) that has now been added to the end of the renewal copyright. This right to reclaim ownership of all or any part of the extended term is optional. It can be exercised only by certain persons (the author, or specified heirs of the author), and it must be exercised in accordance with prescribed conditions and within strict time limits.

A Checklist of Points to Remember

- Copyrights already in their second term on January 1, 1978, have been automatically extended up to a maximum of 95 years without the need for further renewal.
- Copyrights secured between January 1, 1950, and December 31, 1963, had to be renewed within a strict 1-year time limit; if not renewed they expired at the end of their 28th calendar year.
- Copyrights secured between January 1, 1964, and December 31, 1977, are renewed automatically even if renewal registration is not made; renewal registration is optional and if timely made, entitles the claimant to a presumption of validity and other advantages.
- Works in the public domain cannot be protected by copyright. The 1976 Act, the 1992 amendment, and the 1998 amendment do not provide a procedure for restoring protection for works in which copyright has been lost for any reason.
- *Exception:* Under the provisions of the Uruguay Round Agreements Act (URAA), certain foreign works whose U.S. copyright protection had been lost because of noncompliance with formalities of U.S. law were restored as of January 1, 1996. Such works may be registered using Form GATT. For more information, request Circular 38B, *Highlights of Copyright Amendments Contained in the Uruguay Round Agreements Act (URAA-GATT)*.
- A work published before January 1, 1964, and originally copyrighted within the past 75 years may still be protected by copyright if a valid renewal registration was made

during the 28th year of the first term of the copyright. If renewed and if still valid under the other provisions of the law, the copyright will now expire 95 years from the end of the year in which it was first secured. Works published before *January 1, 1923*, have fallen into the public domain, but works published after that date could still be protected by copyright if the copyright was renewed by registration or automatically by law under Public Law 102-307.

For Further Information

By Internet

Circulars, announcements, regulations, certain application forms, and other related materials are available from the Copyright Office website at www.copyright.gov. Claims to copyright can also be registered online at this address.

By Telephone

For general information about copyright, call the Copyright Public Information Office at (202) 707-3000. Staff members are on duty from 8:30 AM to 5:00 PM, Monday through Friday, eastern time, except federal holidays. Recorded information is available 24 hours a day. To request paper application forms or circulars, call the Forms and Publications Hotline at (202) 707-9100 and leave a recorded message.

By Regular Mail

Write to:

*Library of Congress
Copyright Office—COPUBS
101 Independence Avenue SE
Washington, DC 20559-6304*

Endnotes

1. The enactments were Public Laws 87-668, 89-142, 90-141, 90-416, 91-147, 91-555, 92-170, 92-566, and 93-573. Their effect was to extend the second term of all renewed copyrights scheduled to expire between September 19, 1962, and December 3, 1976, through the end of 1976.
2. Works published before January 1, 1923, would have fallen into the public domain at the end of calendar year 1997. Consequently, these works do not receive the additional 20 years of copyright protection created by Public Law 105-298.

