

porter had no reasonable grounds for believing that his or her acts constituted a violation of law.”

CHAPTER 7—COPYRIGHT OFFICE

- Sec.
- 701. The Copyright Office: General responsibilities and organization.
- 702. Copyright Office regulations.
- 703. Effective date of actions in Copyright Office.
- 704. Retention and disposition of articles deposited in Copyright Office.
- 705. Copyright Office records: Preparation, maintenance, public inspection, and searching.
- 706. Copies of Copyright Office records.
- 707. Copyright Office forms and publications.
- 708. Copyright Office fees.
- 709. Delay in delivery caused by disruption of postal or other services.
- 710. Emergency relief authority.

HISTORICAL AND REVISION NOTES

HOUSE REPORT NO. 94-1476

Chapter 7 entitled “Copyright Office,” sets forth the administrative and housekeeping provisions of the bill.

Administrative Procedure Act. Under an amendment to section 701 adopted by the Committee, the Copyright Office is made fully subject to the Administrative Procedure Act [5 U.S.C. 551 et seq. and 701 et seq.] with one exception: under section 706(b), reproduction and distribution of copyright deposit copies would be made under the Freedom of Information Act [5 U.S.C. 552] only to the extent permitted by the Copyright Office regulations.

Retention and Disposition of Deposited Articles. A recurring problem in the administration of the copyright law has been the need to reconcile the storage limitations of the Copyright Office with the continued value of deposits in identifying copyrighted works. Aside from its indisputable utility to future historians and scholars, a substantially complete collection of both published and unpublished deposits, other than those selected by the Library of Congress, would avoid the many difficulties encountered when copies needed for identification in connection with litigation or other purposes have been destroyed. The basic policy behind section 704 is that copyright deposits should be retained as long as possible, but that the Register of Copyrights and the Librarian of Congress should be empowered to dispose of them under appropriate safeguards when they decide that it has become necessary to do so.

Under subsection (a) of section 704, any copy, phonorecord, or identifying material deposited for registration, whether registered or not, becomes “the property of the United States Government.” This means that the copyright owner or person who made the deposit cannot demand its return as a matter of right, even in rejection cases, although the provisions of section 407 and 408 are flexible enough to allow for special arrangements in exceptional cases. On the other hand, Government ownership of deposited articles under section 704(a) carries with it no privileges under the copyright itself; use of a deposited article in violation of the copyright owner’s exclusive rights would be infringement.

With respect to published works, section 704(b) makes all deposits available to the Library of Congress “for its collections, or for exchanges or transfer to any other library”; where the work is unpublished, the Library is authorized to select any deposit for its own collections or for transfer to the National Archives of the United States or to a Federal records center.

Motion picture producers have expressed some concern lest the right to transfer copies of works, such as motion pictures, that have been published under rental, lease, or loan arrangements, might lead to abuse. However, the Library of Congress has not knowingly transferred works of this sort to other libraries in the past,

and there is no reason to expect it to do so in the future.

The Committee added a new subsection (c) to section 704, under which the Register is authorized to make microfilm or other record copies of copyright deposits before transferring or otherwise disposing of them.

For deposits not selected by the Library, subsection (d) provides that they, or “identifying portions or reproductions of them,” are to be retained under Copyright Office control “for the longest period considered practicable and desirable” by the Register and the Librarian. When and if they ultimately decide that retention of certain deposited articles is no longer “practicable and desirable,” the Register and Librarian have joint discretion to order their “destruction or other disposition.” Because of the unique value and irreplaceable nature of unpublished deposits, the subsection prohibits their intentional destruction during their copyright term, unless a facsimile reproduction has been made.

Subsection (e) of section 704 establishes a new procedure under which a copyright owner can request retention of deposited material for the full term of copyright. The Register of Copyrights is authorized to issue regulations prescribing the fees for this service and the “conditions under which such requests are to be made and granted.”

Catalog of Copyright Entries. Section 707(a) of the bill retains the present statute’s basis requirement that the Register compile and publish catalogs of all copyright registrations at periodic intervals, but provides for “discretion to determine, on the basis of practicability and usefulness the form and frequency of publication of each particular part”. This provision will in no way diminish the utility or value of the present catalogs, and the flexibility of approach, coupled with use of the new mechanical and electronic devices now becoming available, will avoid waste and result in a better product.

Copyright Office Fees. The schedule of fees set out in section 708 reflects a general increase in the fees of the Copyright Office from those established by the Congress in 1965. The basic fees are \$10 for registration, \$6 for renewal registration, \$10 for recordation of documents and \$10 per hour for searching. The section also contains new fee provisions needed because of new requirements or services established under the bill, and subsection (a)(11) authorizes the Register to fix additional fees, on the “basis of the cost of providing the service,” “for any other special services requiring a substantial amount of time or expense.” Subsection (b) makes clear that, except for the possibility of waivers in “occasional or isolated cases involving relatively small amounts,” the Register is to charge fees for services rendered to other Government agencies.

Postal Interruptions. Section 709 authorizes the Register of Copyrights to issue regulation to permit the acceptance by the Copyright Office of documents which are delivered after the close of the prescribed period if the delay was caused by a general disruption or suspension of postal or other transportation or communications services.

Reproductions for the Blind and Handicapped. Section 710 directs the Register of Copyrights to establish by regulation forms and procedures by which the copyright owners of certain categories of works may voluntarily grant to the Library of Congress a license to reproduce and distribute copies or phonorecords of the work solely for the use of the blind and physically handicapped.

Editorial Notes

AMENDMENTS

2020—Pub. L. 116-136, div. B, title IX, §19011(b), Mar. 27, 2020, 134 Stat. 582, added item 710.

2000—Pub. L. 106-379, §3(a)(1), Oct. 27, 2000, 114 Stat. 1445, struck out item 710 “Reproduction for use of the blind and physically handicapped: Voluntary licensing forms and procedures.”