102D CONGRESS
1ST SESSION

S. 1345

To amend the National Film Preservation Act of 1988 to modify the composition and procedures of the National Film Preservation Board and the Librarian of Congress in preserving national films, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 20 (legislative day, JUNE 11), 1991

Mr. LEAHY (for himself, Mr. PELL, Mr. STEVENS, and Mr. DECONCINI) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

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A BILL

To amend the National Film Preservation Act of 1988 to modify the composition and procedures of the National Film Preservation Board and the Librarian of Congress in preserving national films, and for other purposes.

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 Film Preservation Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) motion pictures are an indigenous American art form that has been emulated throughout the world;

(2) certain motion pictures represent an enduring part of our Nation's historical and cultural heritage;

(3) because of deterioration or loss, less than one-half of the feature-length films produced in the United States before 1951, including only 20 percent of the silent films, still exist and many of the films produced after 1951 are deteriorating at an alarming rate; and

(4) it is appropriate and necessary for the Federal Government to—

(A) recognize motion pictures as a significant American art form deserving of protection, including preservation and restoration; and

(B) establish a National Film Registry of films that represent an enduring part of our national, historical, and cultural heritage, which Registry should be established and maintained in the Library of Congress; and

(5) to the extent possible, and with the permission of the copyright owners, films selected for inclusion in the National Film Registry should be made

widely available to the American public in their Registry versions.

SEC. 3. NATIONAL FILM REGISTRY OF THE LIBRARY OF CONGRESS.

The Librarian of Congress (hereafter in this Act referred to as the "Librarian") shall establish a National Film Registry under the provisions of this Act, for the purposes of recognizing and preserving films that are culturally, historically, or aesthetically significant.

SEC. 4. DUTIES OF THE LIBRARIAN OF CONGRESS.

(a) DUTIES.—The Librarian shall, after consultation with the Board established under section 5—

(1) after completion of the study required under section 12, establish a comprehensive national film preservation program for films, in conjunction with other major film archives, with the objectives of—

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

(B) generating public awareness of and support for those activities;

(C) increasing accessibility of films for educational purposes; and

(D) improving nationwide activities in the preservation of works in other media such as videotape;

(2) establish criteria and procedures pursuant to which films may be included in the National Film Registry, except that no film shall be eligible for inclusion in the National Film Registry until 10 years after such film's first publication;

(3) establish procedures whereby the general public may make recommendations to the Board regarding the inclusion of films in such National Film Registry;

(4) establish procedures for the examination by the Library of Congress of copies of films named for inclusion in the National Film Registry to determine eligibility for the use of the seal of the National Film Registry;

(5) determine which films satisfy the criteria developed under paragraph (2) and qualify to be included in the National Film Registry, except that the Librarian shall not select more than 25 films each year for inclusion in such Registry;

(6) publish in the Federal Register the name of each film that is selected for inclusion in the National Film Registry;

(7) provide a seal to indicate that a film is included in the National Film Registry;

(8) to the extent practicable, ensure, subject to the rights of copyright owners, that there is a Registry version of each film selected for the National Film Registry;

(9) publish in the Federal Register the standards for preservation or restoration that shall qualify films for use of the seal; and

(10) submit an annual report to the appropriate committees of the Congress, listing films included in the National Film Registry and describing the activities of the Board.

(b) SEAL.—A seal provided for a film under subsection (a)(7) may be used on any copy of the Registry version of such film as defined in section 11(6). Before such seal may be used, the Library of Congress shall have examined and approved the print from which the copy was made. In the case of copyrighted works, only the copyright owner or his duly authorized licensee may place or authorize the placement of a seal on a copy of a film selected for inclusion in the National Film Registry. In the case of works no longer protected by copyright, the Library may affix a seal. The person authorized by this subsection to place a seal on a copy of a film selected for inclusion

in the National Film Registry may accompany such seal with the following language: "This film is included in the National Film Registry, which is maintained by the Library of Congress, and was preserved under the National Film Preservation Act of 1991.".

SEC. 5. NATIONAL FILM PRESERVATION BOARD.

(a) NUMBER AND APPOINTMENT.—(1) The Librarian shall establish in the Library of Congress a National Film Preservation Board to be comprised of 17 members, selected by the Librarian in accordance with the provisions of this section. Each organization listed in subparagraphs (A) through (P) shall submit a list of not less than three qualified candidates to the Librarian. With the exception of the member listed in subparagraph (Q), the Librarian shall appoint 1 member from each such list submitted by the following organizations, and shall designate from that list an alternate who may attend those meetings to which the individual appointed to the Board cannot attend. Such organizations shall include—

(A) the Academy of Motion Picture Arts and Sciences;

(B) the Directors Guild of America;

(C) the Writers Guild of America East and West, appointed in accordance with paragraph (2);

(D) the National Society of Film Critics;

(E) the Society for Cinema Studies;

(F) the American Film Institute;

(G) the Department of Theatre, Film and Television, College of Fine Arts at the University of California, Los Angeles;

(H) the Department of Film and Television at New York University Tisch School of the Arts;

(I) the University Film and Video Association;

(J) the Motion Picture Association of America;

(K) the National Association of Broadcasters;

(L) the Alliance of Motion Picture and Television Producers;

(M) the Screen Actors Guild of America;

(N) the National Association of Theater Owners;

(O) the American Society of Cinematographers;

(P) the United States Members of the International Federation of Film Archives; and

(Q) a member at large.

(2) Each organization under paragraph (1)(C) shall nominate 3 candidates. The Librarian shall appoint a candidate from 1 organization as a member of the Board, and shall select a candidate from the other organization as an alternate.

(3) The member at large listed in paragraph (1)(Q) shall be chosen by the Librarian from names submitted by organizations in the film industry, creative artists, producers, film critics, film preservation organizations, academic institutions with film study programs, and others with knowledge of copyright law and of the importance, use, and dissemination of films. The Librarian shall also select from the names submitted in this paragraph an alternate member at large who may attend those meetings which the member at large cannot attend.

(b) CHAIRPERSON.—The Librarian shall appoint 1 member to serve as Chairperson.

(c) TERM OF OFFICE.—(1) The term of each member of the Board shall be 3 years. There shall be no limit to the number of terms that any individual member may serve.

(2) A vacancy on the Board shall be filled in the manner prescribed by the Librarian, except that no entity listed in subsection (a) may have more than 1 nominee on the Board at any time.

(d) QUORUM.—Nine members of the Board shall constitute a quorum, but a lesser number may hold hearings.

(e) BASIC PAY.—Members of the Board shall serve without pay. While away from their home or regular places of business in the performance of services for the Board,

members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5701 of title 5, United States Code.

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

(g) 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.

SEC. 6. POWERS OF THE 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 Board considers appropriate.

(b) NOMINATION OF FILMS.—The Board shall consider, for inclusion in the National Film Registry, nominations submitted by the general public as well as representatives of the film industry, such as the guilds and societies representing actors, directors, screenwriters, cinematographers and other creative artists, producers, film critics,

film preservation organizations and representatives for academic institutions with film study programs.

(c) SELECTION OF FILMS.—The Board shall review nominations of films submitted to it for inclusion in the National Film Registry and consult with the Librarian and make recommendations with respect to the selection of films for the Registry and the preservation of these and other films that are culturally, historically, or aesthetically significant. The Board shall recommend and the Librarian shall select not more than 25 films a year for inclusion in the Registry.

SEC. 7. NATIONAL FILM REGISTRY COLLECTION OF THE LIBRARY OF CONGRESS.

(a) COPY OF FILM.—The Librarian shall endeavor to obtain, by gift from the owner, an archival quality copy of a Registry version of each film included in the National Film Registry. Whenever possible the Librarian shall endeavor to obtain the best surviving materials, including preprint materials.

(b) ADDITIONAL MATERIALS.—In addition, the Librarian shall endeavor to obtain, for educational and research purposes, additional materials related to each film, such as background materials, production reports, shooting scripts (including continuity scripts) and other similar

materials. Such materials shall become a part of the collection described in subsection (d).

(c) PROPERTY OF THE UNITED STATES.—All copies of films, and other materials, received by the Librarian shall become the property of the United States Government, except that nothing in this Act shall infringe on the copyright owners' rights under title 17, United States Code.

(d) REGISTRY COLLECTION.—All copies of films received by the Librarian shall be maintained in a special collection in the Library of Congress to be known as the "National Film Registry Collection of the Library of Congress". The Librarian shall, by regulation, subject to the limitations of title 17, United States Code—

(1) provide for reasonable access to films in such collection for scholarly and research purposes; and

(2) to the extent practicable, and with the permission of the copyright owners, endeavor to exhibit or encourage the exhibition of such films to the public.

SEC. 8. SEAL OF THE NATIONAL FILM REGISTRY.

(a) USE OF THE SEAL.—No person shall knowingly distribute or exhibit to the public a copy of a film which

bears a seal as described under section 4(a)(7) if such film—

(1) is not included in the National Film Registry; or

(2) is included in the National Film Registry, but the print from which such copy was made was not examined and approved for use of the seal by the Library of Congress pursuant to section 4(b).

(b) EFFECTIVE DATE OF THE SEAL.—The use of the seal as described in this section shall be effective for each film after publication by the Librarian in the Federal Register of the name of that film selected for inclusion in the National Film Registry.

SEC. 9. REMEDIES.

(a) JURISDICTION.—The several district courts of the United States shall have jurisdiction, for cause shown, to prevent and restrain violations of section 8 of this Act upon the application of the Librarian to the Attorney General of the United States acting through the several United States Attorneys in their several districts.

(b) RELIEF.—(1) Except as provided in paragraph (2), relief shall be limited to the prospective removal of the seal of the National Film Registry.

(2) In any case in which the Librarian finds a pattern or practice of the willful violation of this Act, the United

States District Courts may order civil fines of not more than $10,000 and appropriate injunctive relief.

(c) EXCLUSIVE REMEDIES.—The remedies provided under this section shall be the exclusive remedies under this Act or any other Federal or State law, regarding the use of the seal as described by section 4(a)(7).

SEC. 10. STAFF OF BOARD; EXPERTS AND CONSULTANTS.

(a) STAFF.—The Librarian may appoint and fix the pay of such personnel as the Librarian considers appropriate.

(b) EXPERTS AND CONSULTANTS.—The Librarian may 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 GS–15 of the General Schedule, and in no case may a Board member be paid as an expert or consultant.

SEC. 11. DEFINITIONS.

For purposes of this Act:

(1) The term "Board" means the National Film Preservation Board.

(2) The term "copy" used in reference to a film means a copy fixed on film stock, not on other media such as videotapes or laser disks.

(3) The term "film" means a motion picture as defined in section 101 of title 17, United States Code, except that such term excludes any works not originally fixed on film stock, such as videotapes or laser disks.

(4) The term "Librarian" means the Librarian of Congress.

(5) The term "publication" means a publication as defined in section 101 of title 17, United States Code.

(6) The term "Registry version" means, with respect to a film, the version of the film first published or as complete a version as bona fide preservation and restoration activities by the Library of Congress or another archive acting pursuant to section 4 can compile.

SEC. 12. STUDY BY THE LIBRARIAN OF CONGRESS.

The Librarian, after consultation with the Board, shall conduct a study on the state of film preservation and restoration, including the activities of the Library of Congress and the other major film archives in the United States. The Librarian shall consult with film archivists, educators and historians, copyright owners, film industry representatives, including those involved in the preservation of film, and others involved in activities related to

film preservation. No later than 1 year after the date of enactment of this section, the Librarian shall submit to the Congress a report containing the results of the study conducted under this section.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Library of Congress, such sums as are necessary to carry out the provisions of this Act, but in no fiscal year shall such sum exceed $250,000.

SEC. 14. EFFECTIVE DATE.

The provisions of this Act shall be effective on the date of the enactment of this Act through September 30, 1997. The provisions of this Act shall apply to any copy of any film, including films selected for inclusion in the National Film Registry under the National Film Preservation Act of 1988. Films selected for the National Film Registry under the National Film Preservation Act of 1988 shall be deemed to have been selected under this Act.

SEC. 15. REPEAL.

The National Film Preservation Act of 1988 (2 U.S.C. 178 et seq.) is repealed.

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