

Public Law 104-285
104th Congress

An Act

To reauthorize the National Film Preservation Board, and for other purposes.

Oct. 11, 1996
[H.R. 1734]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—REAUTHORIZATION OF THE NATIONAL FILM PRESERVATION BOARD

National Film
Preservation Act
of 1996.

SEC. 101. SHORT TITLE.

2 USC 179*l* note.

This title may be cited as the "National Film Preservation Act of 1996".

SEC. 102. NATIONAL FILM REGISTRY OF THE LIBRARY OF CONGRESS.

2 USC 179*l*.

The Librarian of Congress (hereafter in this Act referred to as the "Librarian") shall continue the National Film Registry established and maintained under the National Film Preservation Act of 1988 (Public Law 100-446), and the National Film Preservation Act of 1992 (Public Law 102-307) pursuant to the provisions of this title, for the purpose of maintaining and preserving films that are culturally, historically, or aesthetically significant.

SEC. 103. DUTIES OF THE LIBRARIAN OF CONGRESS.

2 USC 179*m*.

(a) **POWERS.—**

(1) **IN GENERAL.**—The Librarian shall, after consultation with the Board established pursuant to section 104—

(A) continue the implementation of the comprehensive national film preservation program for motion pictures established under the National Film Preservation Act of 1992, in conjunction with other film archivists, educators and historians, copyright owners, film industry representatives, and others involved in activities related to film preservation, taking into account the objectives of the national film preservation study and the comprehensive national plan conducted under the National Film Preservation Act of 1992. This program shall—

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

(ii) generate public awareness of and support for these activities;

(iii) increase accessibility of films for educational purposes; and

(iv) undertake studies and investigations of film preservation activities as needed, including the efficacy of new technologies, and recommend solutions to improve these practices;

(B) establish criteria and procedures under 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;

(C) establish procedures under which the general public may make recommendations to the Board regarding the inclusion of films in the National Film Registry; and

(D) determine which films satisfy the criteria established under subparagraph (B) and qualify for inclusion in the National Film Registry, except that the Librarian shall not select more than 25 films each year for inclusion in the Registry.

(2) PUBLICATION OF FILMS IN REGISTRY.—The Librarian shall publish in the Federal Register the name of each film that is selected for inclusion in the National Film Registry.

(3) SEAL.—The Librarian shall provide a seal to indicate that a film has been included in the National Film Registry and is the Registry version of that film. The Librarian shall establish guidelines for approval of the use of the seal in accordance with subsection (b).

(b) USE OF SEAL.—The seal provided under subsection (a)(3) may only be used on film copies of the Registry version of a film. Such seal may be used only after the Librarian has given approval to those persons seeking to apply the seal in accordance with the guidelines under subsection (a)(3). In the case of copyrighted works, only the copyright owner or an authorized licensee of the copyright owner may place or authorize the placement of the seal on any film copy of a Registry version of a film selected for inclusion in the National Film Registry, and the Librarian may place the seal on any film copy of the Registry version of any film that is maintained in the National Film Registry Collection in the Library of Congress. Anyone authorized to place the seal on any film copy of any Registry version of a film may accompany such seal with the following language: "This film was selected for inclusion in the National Film Registry by the National Film Preservation Board of the Library of Congress because of its cultural, historical, or aesthetic significance."

Federal Register,
publication.

2 USC 179n.

Establishment.

SEC. 104. NATIONAL FILM PRESERVATION BOARD.

(a) NUMBER AND APPOINTMENT.—

(1) MEMBERS.—The Librarian shall establish in the Library of Congress a National Film Preservation Board to be comprised of 20 members, who shall be selected by the Librarian in accordance with this section. Subject to subparagraphs (C) and (N), the Librarian shall request each organization listed in subparagraphs (A) through (Q) to submit a list of three candidates qualified to serve as a member of the Board. Except for the members-at-large appointed under subparagraph (2), the Librarian shall appoint one member from each such list submitted by such organizations, and shall designate from that list an alternate who may attend at Board expense those

meetings to which the individual appointed to the Board cannot attend. The organizations are the following:

- (A) The Academy of Motion Picture Arts and Sciences.
- (B) The Directors Guild of America.

(C) The Writers Guild of America. The Writers Guild of America East and the Writers Guild of America West shall each nominate three candidates, and a representative from one organization shall be selected as the member and a representative from the other organization as the alternate.

- (D) The National Society of Film Critics.

- (E) The Society for Cinema Studies.

- (F) The American Film Institute.

(G) The Department of Film and Television of the School of Theater, Film and Television at the University of California, Los Angeles.

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

- (I) The University Film and Video Association.

- (J) The Motion Picture Association of America.

(K) The Alliance of Motion Picture and Television Producers.

- (L) The Screen Actors Guild of America.

- (M) The National Association of Theater Owners.

(N) The American Society of Cinematographers and the International Photographers Guild, which shall jointly submit one list of three candidates from which a member and alternate will be selected.

(O) The United States Members of the International Federation of Film Archives.

- (P) The Association of Moving Image Archivists.

- (Q) The Society of Composers and Lyricists.

(2) MEMBERS-AT-LARGE.—In addition to the members appointed under paragraph (1), the Librarian shall appoint up to three members-at-large. The Librarian shall also select an alternate for each member at-large, who may attend at Board expense those meetings which the member at-large cannot attend.

(b) CHAIR.—The Librarian shall appoint one member of the Board to serve as Chair.

(c) TERM OF OFFICE.—

(1) TERMS.—The term of each member of the Board shall be 4 years, except that there shall be no limit to the number of terms that any individual member may serve.

(2) REMOVAL OF MEMBER OR ORGANIZATION.—The Librarian shall have the authority to remove any member of the Board, or the organization listed in subsection (a) such member represents, if the member, or organization, over any consecutive 2-year period, fails to attend at least one regularly scheduled Board meeting.

(3) VACANCIES.—A vacancy in the Board shall be filled in the manner in which the original appointment was made under subsection (a), except that the Librarian may fill the vacancy from a list of candidates previously submitted by the organization or organizations involved. Any member appointed to fill a vacancy before the expiration of the term for which

his or her predecessor was appointed shall be appointed for the remainder of such term.

(d) QUORUM.—11 members of the Board shall constitute a quorum but a lesser number may hold hearings.

(e) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Board.

(f) MEETINGS.—The Board shall meet at least once each fiscal 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.

2 USC 179o.

SEC. 105. RESPONSIBILITIES AND POWERS OF BOARD.

(a) IN GENERAL.—The Board shall review nominations of films submitted to it for inclusion in the National Film Registry and consult with the Librarian, as provided in section 103, with respect to the inclusion of such films in the Registry and the preservation of these and other films that are culturally, historically, or aesthetically significant.

(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, screen-writers, cinematographers, and other creative artists, producers, and film critics, archives and other film preservation organizations, and representatives of academic institutions with film study programs. The Board shall nominate not more than 25 films each year for inclusion in the Registry.

(c) POWERS.—

(1) 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 the Board consider appropriate.

(2) SERVICE ON FOUNDATION.—Two sitting members of the Board shall be appointed by the Librarian, and shall serve, as Board members of the National Film Preservation Foundation, in accordance with section 203.

2 USC 179p.

SEC. 106. NATIONAL FILM REGISTRY COLLECTION OF THE LIBRARY OF CONGRESS.

(a) ACQUISITION OF ARCHIVAL QUALITY COPIES.—The Librarian shall endeavor to obtain, by gift from the owner, an archival quality copy of the 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. Copyright owners and others possessing copies of such materials are strongly encouraged, to further the preservation purposes of this Act, to provide preprint and other archival elements to the Library of Congress.

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

(c) PROPERTY OF UNITED STATES.—All copies of films on the National Film Registry that are received as gifts or bequests by

the Librarian and other materials received by the Librarian under subsection (b), shall become the property of the United States Government, subject to the provisions of title 17, United States Code.

(d) NATIONAL FILM REGISTRY COLLECTION.—All copies of films on the National Film Registry that are received by the Librarian under subsection (a), and other materials received by the Librarian under subsection (b), shall be maintained in the Library of Congress and be known as the "National Film Registry Collection of the Library of Congress". The Librarian shall, by regulation, and in accordance with title 17, United States Code, provide for reasonable access to the films and other materials in such collection for scholarly and research purposes.

SEC. 107. SEAL OF THE NATIONAL FILM REGISTRY.

2 USC 179q.

(a) USE OF THE SEAL.—

(1) PROHIBITION ON DISTRIBUTION AND EXHIBITION.—No person shall knowingly distribute or exhibit to the public a version of a film or any copy of a film which bears the seal described in section 103(a)(3) if such film—

- (A) is not included in the National Film Registry; or
- (B) is included in the National Film Registry, but such film or film copy has not been approved for use of the seal by the Librarian pursuant to section 103(a)(1)(D).

(2) PROHIBITION ON PROMOTION.—No person shall knowingly use the seal described in section 103(a)(3) to promote any version of a film or film copy other than a Registry version.

(b) EFFECTIVE DATE OF THE SEAL.—The use of the seal described in section 103(a)(3) shall be effective for each film after the Librarian publishes in the Federal Register, in accordance with section 103(a)(2), the name of that film as selected for inclusion in the National Film Registry.

SEC. 108. REMEDIES.

2 USC 179r.

Courts.

(a) JURISDICTION.—The several district courts of the United States shall have jurisdiction, for cause shown, to prevent and restrain violations of section 107(a).

(b) RELIEF.—

(1) REMOVAL OF SEAL.—Except as provided in paragraph (2), relief for violation of section 107(a) shall be limited to the removal of the seal of the National Film Registry from the film involved in the violation.

(2) FINE AND INJUNCTIVE RELIEF.—In the case of a pattern or practice of the willful violation of section 107(a), the United States district courts may order a civil fine of not more than \$10,000 and appropriate injunctive relief.

SEC. 109. LIMITATIONS OF REMEDIES.

2 USC 179s.

The remedies provided in section 108 shall be the exclusive remedies under this title, or any other Federal or State law, regarding the use of the seal described in section 103(a)(3).

SEC. 110. STAFF OF BOARD; EXPERTS AND CONSULTANTS.

2 USC 179t.

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

(b) EXPERTS AND CONSULTANTS.—The Librarian may, in carrying out this title, 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. In no case may a member of the Board or an alternate be paid as an expert or consultant under this section.

2 USC 179u.

SEC. 111. DEFINITIONS.

As used in this title—

(1) the term “Librarian” means the Librarian of Congress;

(2) the term “Board” means the National Film Preservation Board;

(3) the term “film” means a “motion picture” as defined in section 101 of title 17, United States Code, except that such term does not include any work not originally fixed on film stock, such as a work fixed on videotape or laser disk;

(4) the term “publication” means “publication” as defined in section 101 of title 17 United States Code; and

(5) the term “Registry version” means, with respect to a film, the version of a film first published, or as complete a version as bona fide preservation and restoration activities by the Librarian, an archivist other than the Librarian, or the copyright owner can compile in those cases where the original material has been irretrievably lost.

2 USC 179v.

SEC. 112. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Librarian such sums as may be necessary to carry out the purposes of this title, but in no fiscal year shall such sum exceed \$250,000.

2 USC 179w.

SEC. 113. EFFECTIVE DATE.

The provisions of this title shall be effective for 7 years beginning on the date of the enactment of this Act. The provisions of this title shall apply to any copy of any film, including those copies of films selected for inclusion in the National Film Registry under the National Film Preservation Act of 1988 and the National Film Preservation Act of 1992, except that any film so selected under either Act shall be deemed to have been selected for the National Film Registry under this title.

SEC. 114. REPEAL.

The National Film Preservation Act of 1992 (2 U.S.C. 179 and following) is repealed.

TITLE II—THE NATIONAL FILM PRESERVATION FOUNDATION ACT

36 USC 5701
note.**SEC. 201. SHORT TITLE.**

This title may be cited as the “National Film Preservation Foundation Act”.

36 USC 5701.

SEC. 202. ESTABLISHMENT AND PURPOSE OF FOUNDATION.

(a) ESTABLISHMENT.—There is established the National Film Preservation Foundation (hereafter in this title referred to as the “Foundation”). The Foundation is a charitable and nonprofit corporation and is not an agency or establishment of the United States.

(b) PURPOSES.—The purposes of the Foundation are—

(1) to encourage, accept, and administer private gifts to promote and ensure the preservation and public accessibility of the nation's film heritage held at the Library of Congress and other public and nonprofit archives throughout the United States;

(2) to further the goals of the Library of Congress and the National Film Preservation Board in connection with their activities under the National Film Preservation Act of 1996; and

(3) to undertake and conduct other activities, alone or in cooperation with other film related institutions and organizations, as will further the preservation and public accessibility of films made in the United States, particularly those not protected by private interests, for the benefit of present and future generations of Americans.

SEC. 203. BOARD OF DIRECTORS OF THE FOUNDATION.

36 USC 5702.

(a) ESTABLISHMENT AND MEMBERSHIP.—The Foundation shall have a governing Board of Directors (hereafter in this title referred to as the "Board"), which shall consist of 9 Directors, each of whom shall be a United States citizen and at least 6 of whom must be knowledgeable or experienced in film production, distribution, preservation, or restoration, including 2 who shall be sitting members of the National Film Preservation Board. These 6 members of the Board shall, to the extent practicable, represent diverse points of views from the film community, including motion picture producers, creative artists, nonprofit and public archivists, historians, film critics, theater owners, and laboratory and university personnel. The Librarian of Congress (hereafter in this title referred to as the "Librarian") shall be an ex officio nonvoting member of the Board. Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purpose of any Federal law.

(b) APPOINTMENT AND TERMS.—Within 90 days after the date of the enactment of this Act, the Librarian shall appoint the Directors of the Board. Each Director shall be appointed for a term of 4 years. A vacancy on the Board shall be filled, within 60 days after the vacancy occurs, in the manner in which the original appointment was made. No individual may serve more than 2 consecutive terms as a Director.

(c) CHAIR.—The initial Chair shall be appointed by the Librarian from the membership of the Board for a 2-year term, and thereafter shall be appointed and removed in accordance with the Foundation's bylaws.

(d) QUORUM.—A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(e) MEETINGS.—The Board shall meet at the call of the Librarian or the Chair at least once a year. If a Director misses 3 consecutive regularly scheduled meetings, that individual may be removed from the Board by the Librarian, and that vacancy shall be filled in accordance with subsection (b).

(f) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation.

(g) GENERAL POWERS.—

(1) ORGANIZATION OF FOUNDATION.—The Board may complete the organization of the Foundation by—

(A) appointing, removing, and replacing officers, except as provided for in paragraph (2)(B);

(B) adopting a constitution and bylaws consistent with the purposes of the Foundation and the provisions of this title; and

(C) undertaking such other acts as may be necessary to carry out the provisions of this title.

(2) LIMITATION ON APPOINTMENT OF EMPLOYEES.—The following limitations apply with respect to the appointment of employees of the Foundation:

(A) Except as provided in subparagraph (B), employees of the Foundation shall be appointed, removed, and replaced by the Secretary of the Board. All employees (including the Secretary of the Board) shall be appointed and removed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS-15 of the General Schedule. Neither the Board, nor any of the employees of the Foundation, including the Secretary of the Board, shall be construed to be employees of the Library of Congress.

(B) The first employee appointed shall be the Secretary of the Board. The Secretary shall be appointed, and may be removed by, the Librarian.

(C) The Secretary of the Board shall—

(i) serve as its executive director, and

(ii) be knowledgeable and experienced in matters relating to film preservation and restoration activities, financial management, and fund-raising.

36 USC 5703.

SEC. 204. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.

(a) GENERAL.—The Foundation—

(1) shall have perpetual succession;

(2) may conduct business in the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States;

(3) shall have its principal offices in the District of Columbia; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

The serving of notice to, or service of process upon, the agent required under paragraph (4), or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(c) POWERS.—To carry out its purposes under section 202, the Foundation shall have, in addition to the powers otherwise given it under this title, the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income therefrom;

(4) to borrow money and issue bonds, debentures, or other debt instruments;

(5) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the Directors of the Board shall not be personally liable, except for gross negligence;

(6) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(7) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons, if any current or future interest therein is for the benefit of the Foundation.

SEC. 205. ADMINISTRATIVE SERVICES AND SUPPORT.

36 USC 5704.

The Librarian may provide personnel, facilities, and other administrative services to the Foundation, including reimbursement of expenses under section 203, not to exceed the current per diem rates for the Federal Government, and the Foundation shall reimburse the Librarian therefor. Amounts so reimbursed shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services.

SEC. 206. VOLUNTEER STATUS.

36 USC 5705.

The Librarian may accept, without regard to the civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and other officers and employees of the Board, without compensation from the Library of Congress, as volunteers in the performance of the functions authorized in this title.

SEC. 207. AUDITS, REPORT REQUIREMENTS, AND PETITION OF ATTORNEY GENERAL, FOR EQUITABLE RELIEF.

36 USC 5706.

(a) AUDITS.—The Foundation shall be treated as a private corporation established under Federal law for purposes of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law.", approved August 30, 1964 (36 U.S.C. 1101–1103).

(b) REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to the Congress a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT.—If the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with its purposes set forth in section 202(b), or

(2) refuses, fails, or neglects to discharge its obligations under this title, or threatens to do so,

the Attorney General of the United States may file a petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate.

36 USC 5707.

SEC. 208. UNITED STATES RELEASE FROM LIABILITY.

The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation, nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

36 USC 5708.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

(a) **AUTHORIZATION.**—There are authorized to be appropriated to the Library of Congress such sums as may be necessary to carry out the purposes of this title, not to exceed \$250,000 for each of the fiscal years 2000 through 2003, to be made available to the Foundation to match private contributions (whether in currency, services, or property) made to the Foundation by private persons and State and local governments.

(b) **ADMINISTRATIVE EXPENSES.**—No Federal funds authorized under this section may be used by the Foundation for administrative expenses of the Foundation, including for salaries, travel, and transportation expenses, and other overhead expenses.

Approved October 11, 1996.

LEGISLATIVE HISTORY—H.R. 1734:

HOUSE REPORTS: No. 104-558, Pt. 1 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 142 (1996):

July 29, considered and passed House.

Sept. 28, considered and passed Senate.