

ployee” have the meanings given those terms in section 401 of title 3.

(Added Pub. L. 104-331, §3(c), Oct. 26, 1996, 110 Stat. 4071.)

EFFECTIVE DATE

Section effective Oct. 1, 1997, see section 3(d) of Pub. L. 104-331, set out as a note under section 1296 of this title.

CHAPTER 180—ASSUMPTION OF CERTAIN CONTRACTUAL OBLIGATIONS

Sec.
4001. Assumption of contractual obligations related to transfers of rights in motion pictures.

§ 4001. Assumption of contractual obligations related to transfers of rights in motion pictures

(a) ASSUMPTION OF OBLIGATIONS.—(1) In the case of a transfer of copyright ownership under United States law in a motion picture (as the terms “transfer of copyright ownership” and “motion picture” are defined in section 101 of title 17) that is produced subject to 1 or more collective bargaining agreements negotiated under the laws of the United States, if the transfer is executed on or after the effective date of this chapter and is not limited to public performance rights, the transfer instrument shall be deemed to incorporate the assumption agreements applicable to the copyright ownership being transferred that are required by the applicable collective bargaining agreement, and the transferee shall be subject to the obligations under each such assumption agreement to make residual payments and provide related notices, accruing after the effective date of the transfer and applicable to the exploitation of the rights transferred, and any remedies under each such assumption agreement for breach of those obligations, as those obligations and remedies are set forth in the applicable collective bargaining agreement, if—

(A) the transferee knows or has reason to know at the time of the transfer that such collective bargaining agreement was or will be applicable to the motion picture; or

(B) in the event of a court order confirming an arbitration award against the transferor under the collective bargaining agreement, the transferor does not have the financial ability to satisfy the award within 90 days after the order is issued.

(2) For purposes of paragraph (1)(A), “knows or has reason to know” means any of the following:

(A) Actual knowledge that the collective bargaining agreement was or will be applicable to the motion picture.

(B)(i) Constructive knowledge that the collective bargaining agreement was or will be applicable to the motion picture, arising from recordation of a document pertaining to copyright in the motion picture under section 205 of title 17 or from publication, at a site available to the public on-line that is operated by the relevant union, of information that identifies the motion picture as subject to a collective bargaining agreement with that union, if the site permits commercially reasonable verification of the date on which the information was available for access.

(ii) Clause (i) applies only if the transfer referred to in subsection (a)(1) occurs—

(I) after the motion picture is completed, or

(II) before the motion picture is completed and—

(aa) within 18 months before the filing of an application for copyright registration for the motion picture under section 408 of title 17, or

(bb) if no such application is filed, within 18 months before the first publication of the motion picture in the United States.

(C) Awareness of other facts and circumstances pertaining to a particular transfer from which it is apparent that the collective bargaining agreement was or will be applicable to the motion picture.

(b) SCOPE OF EXCLUSION OF TRANSFERS OF PUBLIC PERFORMANCE RIGHTS.—For purposes of this section, the exclusion under subsection (a) of transfers of copyright ownership in a motion picture that are limited to public performance rights includes transfers to a terrestrial broadcast station, cable system, or programmer to the extent that the station, system, or programmer is functioning as an exhibitor of the motion picture, either by exhibiting the motion picture on its own network, system, service, or station, or by initiating the transmission of an exhibition that is carried on another network, system, service, or station. When a terrestrial broadcast station, cable system, or programmer, or other transferee, is also functioning otherwise as a distributor or as a producer of the motion picture, the public performance exclusion does not affect any obligations imposed on the transferee to the extent that it is engaging in such functions.

(c) EXCLUSION FOR GRANTS OF SECURITY INTERESTS.—Subsection (a) shall not apply to—

(1) a transfer of copyright ownership consisting solely of a mortgage, hypothecation, or other security interest; or

(2) a subsequent transfer of the copyright ownership secured by the security interest described in paragraph (1) by or under the authority of the secured party, including a transfer through the exercise of the secured party’s rights or remedies as a secured party, or by a subsequent transferee.

The exclusion under this subsection shall not affect any rights or remedies under law or contract.

(d) DEFERRAL PENDING RESOLUTION OF BONA FIDE DISPUTE.—A transferee on which obligations are imposed under subsection (a) by virtue of paragraph (1) of that subsection may elect to defer performance of such obligations that are subject to a bona fide dispute between a union and a prior transferor until that dispute is resolved, except that such deferral shall not stay accrual of any union claims due under an applicable collective bargaining agreement.

(e) SCOPE OF OBLIGATIONS DETERMINED BY PRIVATE AGREEMENT.—Nothing in this section shall expand or diminish the rights, obligations, or remedies of any person under the collective bargaining agreements or assumption agreements referred to in this section.