

Law on Copyright and Related Rights

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Title I Copyright

Chapter I Works Protected and Definitions

1. Original intellectual products confer on their authors the rights to which this Law refers. The protection of copyright shall cover expressions, but not ideas, procedures, operating methods or mathematical concepts per se. The authors of literary and artistic works shall be the owners of the economic and moral rights therein.

[In accordance with Law No. 7979 of January 6, 2000]

“Literary and artistic works” shall be taken to mean all productions in the literary and artistic domain, whatever the form of expression thereof, such as: books, pamphlets, letters and other writings; computer programs, including successive versions thereof and derived programs; lectures, addresses, sermons and other works of similar nature; and dramatico-musical works; choreographic and mimed works; musical compositions with or without words and cinematographic works, to which works expressed by a process analogous to cinematography are assimilated; works of drawing, painting, architecture, sculpture, engraving and lithography; photographic works and works expressed by a process analogous to photography; works of applied art such as illustrations, maps, plans, sketches and three-dimensional works relating to geography, topography, architecture or science; and derived works, like adaptations, translations and other transformations of original works that have been authorized by the authors of the said works where they are not in the public domain.

[Amended by Law No. 7397 of May 3, 1994]

2. This Law protects the works of Costa Rican authors, whether or not they reside on the national territory, and those of foreign authors resident in the country.

3. The works of foreign authors resident abroad shall enjoy in Costa Rica the protection accorded them under international conventions to which the country is party. For those purposes stateless persons shall be assimilated to nationals of the country of residence.

4. For the purposes of this Law:

(a) “individual work” means a work produced by a single author;

(b) “work of joint authorship” means a work produced by two or more authors working together, in which the contribution of each such author cannot be dissociated from the other contributions, so that the work constitutes an indivisible whole;

(c) “anonymous work” means a work in relation to which the author’s name is not mentioned according to the latter’s decision;

(ch) “pseudonymous work” means a work in which the author is presented under a pseudonym that does not identify him;

(d) “unpublished work” means a work that has not been communicated to the public in any form, including word of mouth;

(e) “posthumous work” means a work that has not been published during the lifetime of the author;

(f) “original work” means the creation as originally conceived;

(g) “derived work” means a work resulting from the adaptation of an original work in so far as it is a separate creation possessing originality;

(h) “collective work” means a work produced by a number of contributors in such a way that it is impossible to attribute a particular contribution to any one of them: it is a work

produced on the initiative of a person, whether natural person or legal entity, who publishes it under his name;

(i) “publisher” means the person, whether natural person or legal entity, who acquires the exclusive right to reproduce the work;

(j) “fraudulent reproduction” means reproduction that has not been authorized;

(k) “cinema producer” means the undertaking or person which or who takes the initiative in, coordinates and assumes responsibility for the making of a cinematographic work;

(l) “reproduction” means the copying of a literary or artistic *work* or visual or sound fixation, either partially or completely, in any tangible form, including any permanent or temporary storage by electronic means, even where this is through the two-dimensional production of a three-dimensional work or vice versa;

[In accordance with Law No. 7979 of January 6, 2000]

(m) “publication” means the fact of placing copies of a work or visual or sound fixation at the disposal of the public;

(n) “registry” means the National Registry of Copyright and Related Rights;

(o) “computer program” means a set of instructions expressed in words, codes, diagrams, designs or any other form which, on being inserted in an automated reading device, is capable of making a computer – that is, an electronic or similar device capable of processing data—carry out a particular task or produce a particular result: the technical documentation and users’ manuals also form part of the program;

(p) “distribution” means the placing of the original or copies of the work or phonogram at the disposal of the public by sale, rental, importation, lending or in any other similar form.

[Amended by Law No. 7397 of May 3, 1994]

5. In the case of an anonymous or pseudonymous work, the publisher shall exercise all rights and be subject to all the obligations of the author. When the author decides to reveal his identity, he shall automatically recover the exercise of his rights. Acts lawfully performed by the publisher shall continue to be valid and to have effect after the author’s identity has been revealed; the publisher shall also be liable for any unlawful acts that he may have committed.

6. The owner of the copyright in collective works such as dictionaries or encyclopedias shall be the person, whether natural person or legal entity, who compiles them.

7. Any person may freely use intellectual works in the public domain in any form and by any process; if however they are the works of a known author, his name may not be removed from publications or reproductions, neither may interpolations be made in them without an appropriate distinction being made between the original text and the editorial alterations or additions.

8. Any person who adapts, translates, alters, recasts, abridges, parodies or abstracts the substance of a work in the public domain in any way shall own exclusive rights in his own work, but may not object to others doing the same with the work in the public domain. If such acts are performed in relation to works or productions that are in the private domain, the consent of the owner of the rights shall be necessary. Databases shall be protected as compilations.

[Amended by Law No. 7397 of May 3, 1994]

9. The copyright in a collection of poems and popular songs shall belong to the collector where the collection is a product and result of his research and conforms to a special literary plan.

10. Letters shall be the property of the addressee, who may not disclose them. That right shall belong solely to the author of the correspondence or, after his death, to his spouse or consanguineous heirs for the entire period of protection. The addressee may nevertheless use them, without the author's consent, as evidence in judicial or administrative proceedings.

11. Literary or artistic works published in magazines or periodicals may not be reproduced without the author's consent.

12. The protection of the work shall include its title if that title is original and not liable to be confused with that of another work of the same kind, published earlier by another author. Generic titles and proper names shall not be protected.

Chapter II *Moral Rights*

13. Independently of his economic rights, even after their assignment, the author shall retain entirely personal, inalienable, unrenounceable and perpetual rights in the work, called moral rights.

14. Moral rights shall include the right:

(a) to keep the work unpublished, with the possibility of postponing its publication and reproduction by testamentary provision for a period of up to 50 years following his death;

(b) to demand that he be mentioned by his name or pseudonym as the author of the work in relation to all reproductions and uses thereof;

(c) to prevent any reproduction or communication to the public of his work if it has been distorted, mutilated or altered in any way;

(ch) to make subsequent alterations to his work;

(d) to uphold his honor and reputation as the author of his productions;

(e) to withdraw the work from circulation and prevent its sale to the public, subject to prior indemnification of those prejudiced by such action.

15. On the death of the author, in the absence of specific testamentary provision, the exercise of moral rights shall pass successively to his spouse, to his descendants and to his ascendants, in that order, for the entire period of protection of the work, with the exception of the cases referred to in subparagraphs *(d)* and *(e)* of the foregoing Article. The defense of those rights shall accrue to the Ministry of Culture, Youth and Sport when the work falls into the public domain for want of heirs.

Chapter III *Economic Rights*

16.—(1) The author of a literary or artistic work shall have the exclusive right to use that work. Copyright contracts shall always be interpreted restrictively, the assignee not being granted rights more extensive than those expressly mentioned, except where they are the necessary consequence of the nature of the terms of the contract; the author shall therefore be entitled to authorize:

- (a)* graphic publishing;
- (b)* reproduction;
- (c)* translation into any language or dialect;
- (d)* adaptation and inclusion in phonograms, videograms, cinematographic films and other audiovisual works;
- (e)* direct or indirect communication to the public by any process, and in particular by:
 - (i)* performance or delivery;
 - (ii)* sound or audiovisual broadcasting;
 - (iii)* speaking devices, telephone or similar electronic apparatus;
- (f)* placing of his works at the disposal of the public, such that members of the public may access them at the time and from the place of their individual choosing;
- (g)* distribution;
- (h)* public transmission or broadcasting of his works by any method, including transmission or retransmission by cable, optical fiber, microwave, satellite or any other method;
- (i)* import to the national territory of copies of the work, made without his authorization;
- (j)* any other form of use, process or system known or to be made known.

(2) The rights granted by subparagraphs *(g)* and *(i)* of this Article shall not be opposed to the sale or import of originals or copies of the work, lawfully placed on sale in any country by the owner of the protected work or other person who has the latter's consent, provided that said works have not been altered or modified.

[In accordance with Law No. 7979 of January 6, 2000]

17. The owner of the economic rights in the work shall have the exclusive right to specify the economic remuneration payable by the users thereof.

[Amended by Law No. 6935 of December 14, 1983]

18. The economic rights of the co-author of a work of joint authorship who dies without heir shall accrue to the remaining co-authors.

19. The various forms of use shall be independent of each other inasmuch as authorization to fix the work or production shall not entail authorization to perform it or broadcast it, and vice versa.

20.

[Article repealed by Law No. 7397 of May 3, 1994, published in Gazette No. 89 of May 10, 1994]

Chapter IV *Publishing Contracts*

21. Under a publishing contract a person called the publisher is granted, by the author of a literary or artistic work or his successors in title, the right, on specified conditions, to reproduce, disseminate and sell the work. The publisher shall publish the work on his own account and at his own risk, and shall pay the author the remuneration previously agreed upon by the two parties.

22. The publishing contract may be concluded for a stated number of editions or for a maximum period of five years. If the contract is established for more than one edition, the period shall be understood to have elapsed once five years have passed, even if the agreed number of editions is not out of print. If the contract does not establish a period or number of editions, it shall be understood to cover a single edition. If an edition is out of print, the work shall not be republished within a period of 18 months, and the author may seek to rescind the contract.

[In accordance with Law No. 7979 of January 6, 2000]

23. An edition shall be considered out of print when the publisher cannot meet commercial orders made to him for the supply of copies, or when the number of copies available on the market falls below one hundred.

[Amended by Law No. 6935 of December 14, 1983]

24. In the case of a contract concluded for a set period, the rights of the publisher shall expire when the last edition produced within the period is out of print, or, if it is for a stated number of editions, when the last such edition is out of print.

25. The author shall guarantee the publisher undisturbed and, unless otherwise agreed, exclusive exercise of the right granted. Both the author and the publisher shall be obliged to ensure the respect and defense of the right, either separately or jointly.

26. The publisher may not assign the publishing contract to third parties, either free or for a consideration or as a corporate participation, independently of his business, without having obtained the author's prior consent. Such consent shall not be necessary if the assignment is made by liquidation or division, in the case of joint authorship, in favor of one of the associates or joint owners.

27. The author shall, within the period specified in the contract, deliver the work to be published to the publisher in a form that permits it to be reproduced normally. The publisher may not make alterations or additions to the work or abridge it without the author's written consent. The author shall have the right to make such corrections, amendments or improvements to the work as he considers appropriate before it goes to press; however, when the corrections or improvements make printing more costly, he shall be obliged to indemnify the publisher for the corresponding costs.

28. The publisher shall include the author's name or pseudonym or other identification in each of the copies, and shall publish the work within the period specified in the contract. Where no such period is specified, it shall be understood to be two years.

29. The publisher shall decide on the number of copies in each edition, and also its typographical characteristics in so far as they do not prejudice the moral rights of the author.

30. The publisher shall determine the selling price of each copy according to commercial customs and practice.

31. On expiry of five years following the date stated on the colophon, the publisher may sell the remaining copies of the edition at a reduced price and pay the author proportional royalties according to the new price.

32. The author may at any time purchase copies of his work from the publisher at the public selling price less the customary discount that the publisher grants to booksellers.

33. The publisher shall be obliged to market the work permanently and continuously, and to distribute it according to customs and practice.

34. Except where special procedures are specified in the contract, the publisher shall make the author half-yearly settlements of his royalties, with a statement of the date of publication, the number of copies published, the number of copies sold and the corresponding amount of royalties.

35. Bankruptcy or insolvency on the part of the publisher shall not cause the publishing contract to be terminated. If the receiver, duly authorized by the court as provided in the Commercial Code, continues to implement the publishing contract, he shall assume all the obligations of the publisher. However, when effecting the sale of copies, he shall give the author a preferential right to acquire them according to the provisions of Article 10. In any event, the royalties shall be regarded for payment purposes as being claims of the workers.

36. During the currency of the publishing contract, the publisher may demand withdrawal from sale of any other subsequent publication of the same work effected by another publisher with or without the authorization of the author.

[Amended by Law No. 6935 of December 14, 1983]

37. The author shall have the right to make whatever corrections or alterations he wishes in successive editions of his work, subject to indemnification of the publisher for the expenses that he incurs thereby.

38. In the case of total or partial loss or destruction of an unpublished work, the person responsible shall provide for the following indemnification:

(a) if it occurs while the work is in the author's possession, the author shall pay the publisher any sum that he may have received as advance payment, plus any necessary costs that the publisher may have incurred;

(b) if the loss or destruction is attributable to the publisher, the publisher shall indemnify the author for all the moral and economic prejudice caused.

39. The author shall retain all the economic rights in the work, with the exception of those expressly assigned in the publishing contract.

40. Where one or more authors undertake to make a work according to a plan submitted to them by the publisher, they may not claim more than the agreed fees. The commissioning party shall be the owner of the economic rights in the work, but the parties commissioned shall retain their moral rights in the work; also, where the author is a salaried employee, the owner of the economic rights shall be the employer.

[Amended by Law No. 7397 of May 3, 1994]

Chapter V *Performing Contracts*

41. By virtue of a stage performing contract, the author of a theatrical work, such as a drama, tragedy, comedy, opera or other work of the same kind, entrusts the public performance of the work, with or without exclusive rights, to a theater impresario for a certain number of performances in a specific theater or hall in return for the remuneration specified in the contract.

The contract may contain other provisions, including such as specify the actors who are to play the principal roles, wardrobe details and the description of the scenery.

42. The author shall submit the work to the theater impresario in order that the latter may study it and state, within 45 days, whether or not he accepts it for public performance. In the case of an unpublished work, the theater impresario shall be responsible for the total or partial destruction of the original and for any prejudice suffered by the author if through him the work is performed or reproduced by a third party without the author's consent.

43. Once the work has been accepted, it shall be performed within the following year, such year being counted from the date on which it was submitted to the theater impresario; if it is not performed within that year, the theater impresario shall pay the author, by way of indemnification, an amount considered by the court to be proportional to the proceeds that would have been realized by him if it had been performed.

44. When the theatrical work has been accepted for performance, it shall be performed in the agreed manner, and no alterations may be made to it without the consent of the author. If the work is unpublished, only such copies as are necessary for the performance shall be produced, and it shall be prohibited to sell them or disclose them in any way without the author's permission.

45. The author of the theatrical work may not have it performed by a third party as long as the theater impresario who accepted it first has not completed the agreed number of performances, except where the contract with him did not provide for exclusive rights.

46. Any impresario of a theater, performance venue, concert or festival hall or radio or television broadcasting station in which theatrical works are performed shall be obliged to obtain the prior authorization of the authors, to pay them whatever royalties are specified and to provide the agreed remuneration.

47. The provisions on stage performance shall apply as appropriate to the public performance of musical works.

Chapter VI
Public Performance and Broadcasting

48 and 49.

[Articles repealed by Law No. 6935 of December 14, 1983]

50. The competent authority shall not allow the public performance of a work to take place unless the user displays the program, with an indication of the works to be performed and the names of their authors. He shall also be required to produce, where applicable, the receipt attesting payment of the remuneration due to the copyright owners. Where the performance involves the use of phonograms, the program shall also contain the names of the performers.

The user shall also produce, where applicable, the receipt attesting the payments made for neighboring rights.

[Amended by Law No. 6935 of December 14, 1983]

51. When the authors and performers have consented to the ephemeral fixation of their works and performances, broadcasting organizations may use them in their broadcasts for the number of times that has been specified, and shall be obliged to destroy the fixation immediately after the last authorized transmission.

Chapter VII
Cinematographic Works

52. The authors of a cinematographic work are:

- (a) the author of the script;
- (b) the composer of the music composed specially for the film;
- (c) the director;
- (ch) the producer.

53. Unless otherwise agreed, the author of the script of a film shall have the right to publish it separately or extract from it a literary or artistic work of another kind, and the composer may publish or perform the music separately. The composer shall also have the right to receive royalties for the public performance of his music each time that the film is shown.

54. The producer of the film, on showing it in public, shall mention his own name and those of the author of the script, the author of the original work, the composer if appropriate, the director and the main performers.

55. The cinematographic producer shall be invested with the full and exclusive exercise of the economic rights in the cinematographic work, and shall be entitled to perform all such acts as are conducive to its wide circulation and exploitation, unless expressly provided otherwise in the contracts with the co-authors.

Audiovisual programs produced by processes analogous to cinematography, such as videograms, shall be protected as cinematographic works.

56. The moral rights in the cinematographic work shall belong to its director, who may only oppose the distribution and showing of the film by virtue of a final judicial ruling.

57. Any contributor who for any reason does not complete his contribution may not object to the producer engaging a third party to complete the work. The replaced contributor shall retain his rights in the part contributed by him.

Chapter VIII
Periods of Protection

58. Copyright shall be permanent throughout the lifetime of an author. After his death it shall be enjoyed for a period of 70 years by those who have lawfully acquired it. Where the duration of the protection of a work is calculated on a basis separate from the lifetime of a natural person, that duration shall be:

- (a) seventy years, beginning from the end of the calendar year of first publication or authorized disclosure of the work;

(b) failing such publication within a period of 70 years beginning from the end of the calendar year in which the work is produced, the duration of protection should be 70 years, starting from the end of the calendar year in which the work is in any way first placed at the disposal of the public with the author's consent;

(c) failing authorized publication and the placing at the disposal of the public in any other way with the author's consent, within a period of 70 years beginning from the work's production, the duration of protection should be 70 years from the end of the calendar year of production.

[In accordance with Law No. 7979 of January 6, 2000]

59. In the case of works of duly established joint authorship, the period of 70 years shall be counted from the death of the last surviving co-author.

[In accordance with Law No. 7979 of January 6, 2000]

60. Dictionaries, encyclopedias and other collective works referred to in Article 6 of this Law shall be protected for 70 years from the date of their publication; however, in the case of works consisting of two or more volumes that are not published in the same year, and in the case of serialized works or works produced in periodical installments, the period shall start for each volume, episode or installment on the date of its publication.

[In accordance with Law No. 7979 of January 6, 2000]

61. The cinematographic work shall enjoy protection for 70 years counted from its first public showing.

[In accordance with Law No. 7979 of January 6, 2000]

62. The protection of anonymous or pseudonymous works referred to in Article 5 of this Law shall be 70 years from the date of their publication.

[In accordance with Law No. 7979 of January 6, 2000]

63. The State, the municipal councils and the official corporations shall enjoy the protection of this Law, but, as far as economic rights are concerned, only for 25 years from the date of publication of the work, except in the case of public bodies whose purpose is the exercise of such rights as their normal activity, in which case protection shall be for 50 years.

64. For the purposes of this Law, the date of publication of literary or musical works shall be that of the day on which the copies of the first edition are placed on sale.

65. The protection periods provided for in this Chapter shall be counted from December 31 of the year in which the event that caused them to start occurred.

66. In cases of escheated inheritance, there shall be no legal succession in favor of any State body; ownership of the copyright shall fall immediately into the public domain.

Chapter IX
Exceptions to Protection

67. News having the character of mere items of press information shall not be protected by this Law; however, the medium which reproduces or retransmits them shall be obliged to record the original source from where the information was taken.

[In accordance with Law No. 7979 of January 6, 2000]

68. Articles on current affairs published in magazines or periodicals may be reproduced unless expressly prohibited, but in all cases the source shall be mentioned.

69. Speeches delivered in deliberating assemblies or at public meetings, and likewise addresses by counsel to the courts of justice, may be published in the periodical press or periodically broadcast on the radio or television without any authorization being necessary; they may not however be published as individual editions or in a collection without the consent of the author.

70. It shall be permissible to quote an author, transcribing the relevant passages, provided that the passages are not consecutive and such that they might be considered a simulated, substantial reproduction that redounds to the prejudice of the author of the original work.

71. It shall be lawful to make reproductions by photographic or other pictorial processes of statues, monuments and other works of art acquired by the authorities that are displayed in streets, parks and museums.

72. The playing of phonograms and the receiving of radio or television broadcasts shall be free, for the purpose of demonstration to customers, in commercial establishments that sell household electrical receiving apparatus or phonograms.

73. Theatrical and musical performances shall be free when they take place in the home for the sole benefit of the family circle. They shall also be free when they take place solely for educational purposes, in so far as there is neither gainful intent nor any form of economic compensation.

74. The reproduction of an educational or scientific work, done personally and exclusively by the person concerned for his own use and without any direct or indirect gainful intent, shall also be free. Such reproduction shall be done in a single handwritten or typewritten copy. This provision shall not apply to computer programs.

[Amended by Law No. 7397 of May 3, 1994]

75. Any person shall be allowed to reproduce freely constitutions, laws, decrees, municipal decisions, regulations and other public instruments, subject to the obligation to conform strictly to the official edition. Private persons may also publish legal codes and collections of laws, with notes and comments, and each author shall be master of his own work.

76. The publication of portraits shall be free where it is related to scientific, educational or general cultural purposes, or to matters or events of public interest or arising or occurring in public.

Title II Related Rights

Chapter I Performers

77. For the purposes of this Law,

(a) “performer” means any actor, speaker, narrator, reciter, singer, dancer or musician, or any other person who performs a literary or artistic work;

(b) “fixation” means the embodiment of sounds, images or sounds and images in a permanent physical medium that permits them to be reproduced or communicated to the public.

78. Without prejudice to the rights conferred on the owners of copyrights, performers or their agents, heirs, successors or assignees, having acquired their status either free or for a consideration, shall have the right to authorize or prohibit the fixation, reproduction, communication to the public, transmission or retransmission by radio or television or any other form of use of their performances.

[In accordance with Law No. 7979 of January 6, 2000]

79. The performer may object to the broadcasting of his performances where such broadcasting would seriously and unjustly prejudice his artistic or economic interests; he shall also have the right to demand that his name be mentioned when his performance is communicated to the public by means of public performance or broadcasting.

80. For the exercise of the rights recognized by this Law, orchestras and vocal and instrumental groups shall be represented by their conductors or leaders, who shall be regarded as the performers of the instrumental recordings for the purposes of Article 84(a).

81. For the purposes of this Law,

(a) “producer of phonograms” means the recording enterprise that fixes the sounds of a performance or other sounds for the first time;

(b) “phonogram” means any sound fixation of the sounds of a performance or other sounds;

(c) “videogram” means the first fixation of sequences of images, with or without sound, that can be reproduced on film, videodisc, videocassette or any other physical medium.

82. Without prejudice to the rights conferred on the owners of copyrights, producers of phonograms or videograms shall have the exclusive right to authorize or prohibit:

- (a) the direct or indirect reproduction of their phonograms or videograms;
- (b) the first public distribution of the original and of each copy of the phonogram by means of sale, hire or any other means;
- (c) commercial hiring to the public of the originals or copies;
- (d) the import of copies of the phonogram, produced without the producer's authorization;
- (e) transmission and retransmission by radio and television;
- (f) public performance by any means or form of use;
- (g) placing at the disposal of the public of his phonograms, be it by wire, cable, optical fiber, electromagnetic waves, satellite or any other similar means providing the public with access to or remote communication of protected works, from the place and at the time of individual choosing.

[In accordance with Law No. 7979 of January 6, 2000]

83. Where a phonogram or videogram published for commercial purposes, or a reproduction of such phonogram or videogram, is used directly for broadcasting or for any form of communication in places frequented by the public (such as those cited in Article 49) the user shall obtain prior authorization from the producer and shall pay a single equitable remuneration to the said producer, which shall be intended as payment to him and to the performers.

[Affected by amendment under Law No. 6935]

84. In the absence of an agreement between the performers and the producer, one half of the sum received by the producer, less the expenses incurred in collection and administration, shall be paid by the producer to the performers, who, unless they have entered into a special agreement among themselves, shall share the amount in the following manner:

- (a) fifty per cent shall accrue to the performer, understood as being the singer or vocal group or other performer who appears most prominently on the phonogram label;
- (b) fifty per cent shall accrue to the accompanists and to the members of the chorus or choir who took part in the recording, to be divided equally between all of them; if they do not lay claim to these sums within 12 months, the producer shall transfer the whole amount to the association or union of the professional category concerned.

Chapter III *Broadcasting Organizations*

85. For the purposes of this Law,

- (a) "broadcasting organization" means the radio or television enterprise that transmits programs to the public;

(b) “broadcast” or “transmission” means the distribution by means of electromagnetic waves of sounds, or sounds synchronized with images, for reception by the public;

(c) “retransmission” means simultaneous or deferred transmission of a broadcasting organization’s broadcast when effected by another broadcasting organization.

86. Without prejudice to the rights granted to the owners of copyrights, broadcasting organizations shall have the right to authorize or prohibit the fixation and reproduction of their broadcasts, and the retransmission, subsequent distribution and communication to the public of their television broadcasts in premises frequented by the public.

[In accordance with Law No. 7979 of January 6, 2000]

Chapter IV *Periods of Protection*

87. The duration of the protection granted by this Law in respect of related rights shall be 70 years, counted from December 31 of the year in which the fixation was made, or the performance or radiobroadcast took place.

[In accordance with Law No. 7979 of January 6, 2000]

Title III **Transfer and Succession**

Chapter I *Transfer*

88. The owner of copyright or related rights may transfer his economic rights, either wholly or in part.

89. Any act of transfer of a literary or artistic work or of a related right, either full or partial, shall be evidenced by a public or private deed executed before two witnesses.

90. The transfer of plans, drawings and similar graphic material shall give the acquirer the right only to make the work represented, and not to reproduce or dispose of the material or use it for the making of other works. All such rights shall remain vested in the author, unless otherwise agreed.

91. Unless otherwise agreed, the transfer of pictorial works, sculptures and three-dimensional artistic works in general shall not confer on the acquirer the right of reproduction, which shall remain vested in the author.

92. Transfer of a photographic negative shall create a presumption of assignment of the copyright in the photograph.

93. Any contract for the sale of the future production of an author or performer may not exceed five years, and shall lapse on expiry of that period even if a longer time has been specified.

Chapter II
Succession

94. For legal purposes, literary or artistic works and related productions shall be considered movable property, and shall be subject to the currently applicable provisions of the Civil Code relating to successional law, without prejudice to the specific provisions of this Law.

Title IV

Chapter I
National Registry of Copyright and Related Rights

95. An office shall be established in the capital of the Republic which shall have the name of National Registry of Copyright and Related Rights, attached to the Public Registry of Property. That office shall be under the responsibility of a director, called the National Registrar of Copyright and Related Rights, and shall be composed of such staff as activity and circumstances dictate. It shall be an essential requirement for accession to the post of Registrar to hold a degree in law.

In addition to the functions enshrined in this Law, the National Registry of Copyright and Related Rights may, in the form of its Director, decree precautionary measures subject to the terms and conditions of the Law on Procedures for Enforcement of Intellectual Property Rights.

[Text added by Law No. 8039 of October 12, 2000]

96. In the manual for the classification of posts of the General Civil Service Directorate, a new code shall be introduced with the title of National Registrar of Copyright and Related Rights. In cases of temporary absence, the National Registrar of Copyright and Related Rights shall be replaced by the employee who, in decreasing order of seniority, occupies the next post in the hierarchy of the Office.

97. The National Registry of Copyright and Related Rights shall keep the following registers separately: general register of incoming material; general index; register of literary works; register of cinematographic films; register of musical, choreographic and mimed works; register of paintings, drawings, photographs and designs; register of publishers, printed matter and periodicals; register of translations; register of authors' representatives; register of pseudonyms; register of phonograms; register of radio and television programs; register of other works; register of publishing contracts; register of performing contracts; register of deeds of transfer; and register of other contracts associated with intellectual property. Each of the above registers shall have the corresponding separate indexes.

98. An author who uses a pseudonym may register it at the National Registry of Copyright and Related Rights.

99. The registers at the National Registry of Copyright and Related Rights shall meet the same requirements as those kept by other registries, pursuant to the laws applicable.

100. The opening and closing of these registers shall be evidenced by an entry signed by the Registrar, such entry stating the purpose and the hour, day and date of opening and closing, the number of the register, the number of folios and any other particulars that the Registrar sees fit to place on record.

101. The protection provided for in this Law arises from the mere fact of creation, independently of any procedure or formality.

102. For greater security, the owners of copyright and related rights may register their productions at the National Registry of Copyright and Related Rights, such registration having merely declaratory effect. Deeds or documents concerning legal negotiations on copyright and related rights may also be registered.

103. In order to register a production, the person concerned shall submit a written request to the Registrar with the following particulars:

(i) the surname, given names and address of the requester, and a statement of whether he is acting in his own name or on behalf of another person, in which case certification of that fact shall be filed and the surname, given names and address of the party represented shall be stated;

(ii) the surnames, given names and addresses of the author, publisher and printer, and their capacities;

(iii) the title of the work, its genre, the place and date of its publication and any other characteristics that enable it to be identified clearly;

(iv) in the case of phonograms, the name of the performer and the catalogue number shall also be stated;

(v) when a computer program or database is to be registered, the request shall be filed with any of the following elements: the program, the description or the supporting material.

[Amended by Law No. 7397 of May 3, 1994]

104. When the work is cinematographic, the following particulars shall be given for the purposes of registration:

(a) everything specified in the preceding Article;

(b) a detailed account of the script, dialog, scenery and music;

(c) the surnames and given names of the script writer, composer, director and main performers;

(ch) the footage of the film.

In addition, as many photographs shall be submitted as there are main scenes in the film, from which it may be determined, by comparison, whether the work is an original work.

105. The registration of deeds and documents at the National Registry of Copyright and Related Rights shall be made by means of a request which shall be authenticated by a law graduate. When the file has been accepted for registration and entered in the appropriate register or registers at the Registry, the person concerned shall sign it.

106. Any person or legal entity under public or private law responsible for reproducing a work by printed, magnetic, electronic, electromagnetic or any other means shall deposit a copy of the reproduction at each of the following institutions in the course of the eight days following publication: the Library of the State University of Distance Learning, the Library of the University of Costa Rica, the Library of the National University, the Library of the Legislative Assembly, the National Library, the Library of the Ministry of Justice, the Library of the Directorate General of the National Archives, the Library of the Technology Institute of Costa Rica and the Library of the National Registry of Copyright and Related Rights. The copy for the above-mentioned registration shall be accompanied by the documents proving receipt by the other institutions.

Failure to deposit with any one of the said institutions shall be punished with a fine equivalent to the total value of the reproduction.

[In accordance with Law No. 7979 of January 6, 2000]

107. In the case of an unpublished work, it shall be sufficient to deposit a single copy of it in typewritten form, without alterations, deletions or interlineations, with the signature of the author authenticated by an attorney. If the unpublished work is a theatrical or musical work, it shall be sufficient to submit a handwritten copy with the signature of the author authenticated by an attorney.

108. In the case of a unique artistic work such as a canvas or bust, portrait, painting, drawing or other three-dimensional work, deposit shall be effected by the submission of a description of its characteristics, together with photographs showing front and side views, as appropriate.

For the registration of plans, sketches, maps, photographs and phonograms, a reproduction or copy thereof shall be deposited at the National Registry of Copyright and Related Rights.

109. Registration shall be effected in the appropriate register or registers kept by the Registry in favor of the persons mentioned in the work as being its author, co-authors, adapters or compilers, as laid down by this Law. In the case of anonymous or pseudonymous works, the rights shall be registered in the name of the publisher, except where the pseudonym is registered. If the work is posthumous, the rights shall be registered in the name of the author's successors in title, after their qualification has been verified. A phonogram shall be

registered in the name of its producer. A radio or television program shall be registered in the name of the broadcasting organization concerned.

110. For the registration of deeds of transfer and also translations, publishing and participation contracts and any other deed or contract associated with copyright or related rights, it shall be necessary to show the deed or title concerned, with the signature of the assignor authenticated by an attorney, to the Registrar.

111. The representatives or administrators of theatrical or musical works may request registration of their powers of attorney or contracts at the Registry, which shall issue a certificate, such certificate being sufficient in itself for the exercise of the rights conferred by this Law. Collecting societies entrusted with the representation and administration of copyright and related rights on behalf of their members and those whom they represent shall provide the Registrar with evidence that they are authorized to represent and administer the rights of the persons concerned.

112. When registration has taken place, the Registrar shall immediately make out a certificate and issue it to the person who effected the registration of the work.

The certificate shall specify the volume in which and the folio and date on which the registration was effected, the title of the registered work, the surnames, given names and addresses of the author, co-authors, translator, adaptor, compiler, publisher and successors in title, in whose name the rights concerned have been registered, and also any other characteristic that contributes to the identification of the work, as well as the seal and signature of the Registrar.

113. When the request for registration has been accepted as being in order, the Registrar shall order the publication of a summarized proclamation in *La Gaceta*. On expiry of 30 working days without opposition, registration of the work in favor of the requesting party shall take place. Unpublished works shall not require publication.

[In accordance with Law No. 7979 of January 6, 2000]

114. Where the Registrar refuses registration, the requesting party shall have the right to file an administrative appeal for review with the Ministry of Culture, Youth and Sport.

115. If the Ministry of Culture, Youth and Sport upholds the Registrar's decision to refuse registration, the requesting party shall have the right to initiate proceedings in court to contest the ruling.

116. The certificate issued by the Registrar shall constitute full proof that the work is registered in the name of the person mentioned in it, except where an irreversible judicial decision declares the registration fraudulent.

Title V
Criminal and Civil Sanctions
and Procedures

Chapter I
Criminal Sanctions and Procedures

117 to 120.

[Articles repealed by Law No. 8039 of October 12, 2000]

121. The person who, without being the author or publisher, or the successor in title or representative of either of them, falsely ascribes any of those titles to himself and, by way of action in that capacity pursuant to this Law, causes the appropriate authority to suspend the lawful public performance of a work, shall be punished with a fine of 10 to 30 daily units, without prejudice to the economic damage caused by his fraudulent action.

122.

[Article repealed by Law No. 8039 of October 12, 2000]

123. At the request of the plaintiff, second offenses of unauthorized public performance or recitation may be punished with the temporary or permanent withdrawal of the authorization granted for the operation of the theater, performance venue, concert or festival hall, cinema, dance hall, radio or television station, or other place in which literary or artistic works or phonograms are performed, recited or shown.

124.

[Article repealed by Law No. 8039 of October 12, 2000]

125. Unlawful reproduction and equipment used for that purpose shall be confiscated and awarded, in the condemnatory criminal sentence, to the owner of the infringed rights.

[Amended by Law No. 7397 of May 3, 1994]

126 and 127.

[Articles repealed by Law No. 8039 of October 12, 2000]

Chapter II
Civil Sanctions and Procedures

128 to 131.

[Articles repealed by Law No. 8039 of October 12, 2000]

132. National or foreign societies legally constituted for the defense of the owners of copyright and related rights shall be regarded as the agents of their members, and those whose rights they represent, for all legal purposes by the mere fact of membership, except where

expressly provided otherwise, such societies being entitled to act at administrative or judicial level in defense of the moral and economic interests of their members.

[Interpreted by Law No. 7686 of August 6, 1997, in the sense that the term “company” includes both commercial companies and associations]

133 to 144.

[Articles repealed by Law No. 8039 of October 12, 2000]

Title VI General and Transitional Provisions

Chapter I General Provisions

145 and 146.

[Articles repealed by Law No. 8039 of October 12, 2000]

147. When the author dies without completing his work, the publisher or user may agree with the spouse and consanguineous heirs of the author to entrust another person with its completion, deducting in favor of that person remuneration in proportion to his work, and mentioning his name in the publication.

148. Any person shall have the right to prohibit his bust or portrait from being exhibited or placed on the market without his express consent, or, if he has died, without the consent of the persons mentioned in Article 15 of this Law. The person who has given his consent may revoke it, subject to indemnification for the prejudice caused by his changed decision.

149. When the consent of two or more persons is necessary for the publication of letters, or for the placing on the market or exhibiting of the bust or portrait of an individual, and where there is disagreement between them, the matter shall be settled by judicial means.

150. Where there are two or more successors to the author and where they do not agree on the publication of the work or on the means of publishing, distributing or selling it, the judge shall settle the matter in a summary ruling after having heard all the parties.

151. In any resale of an original work of art or of original manuscripts of writers and composers, the author shall enjoy the inalienable and unrenounceable right to collect from the seller five per cent of the resale price. On the death of the author this resale royalty shall pass, for a period of 50 years, to his spouse and thereafter to his consanguineous heirs.

152. The protection provided for in Articles 78 and 79 shall also be enjoyed by variety performers such as acrobats, magicians, clowns, trapeze artists, animal tamers and others who do not perform works but participate professionally in public shows.

153. The protection provided for in Article 78 shall also be enjoyed by amateur and professional athletes who perform in public. The exercise of the right shall belong to the club or sports entity to which they belong.

[Amended by Law No. 6935 of December 14, 1983]

154. The various forms of use shall be independent of each other, so that authorization to record the work or production shall not constitute authorization to perform or transmit it, or vice versa.

155. In the absence of evidence to the contrary, the individual whose name or known pseudonym is specified on a protected work in the customary manner shall be considered the author of the work.

156. All acts restricted to authors, performers, phonogram producers or broadcasting organizations may be performed by their duly authorized representatives and by assignees and successors in title or by the collecting society that lawfully represents them.

[Interpreted by Law No. 7686 of August 6, 1997, in the sense that the term “company” includes both commercial companies and associations]

157. Where the title of a magazine or periodical is characteristic, it may not be used for another without the appropriate permission of the owner of the former periodical. The protection conferred on such titles shall continue for five years following the appearance of the last issue.

Chapter II *Transitional Provisions*

158. Until such time as the office of the National Registry of Copyright and Related Rights has been established, the duties of the Registrar shall continue to be performed by the Director of the National Library, in strict compliance with the principles laid down in this Law.

159. Works which, on the entry into force of this Law, are registered at the National Library and belong to the private domain shall retain all acquired rights without any formality having to be complied with.

160. The provisions of mercantile law and civil law shall apply in a manner subsidiary to the provisions of this Law.

161. This Law shall where appropriate repeal Law No. 40 of June 27, 1896, in so far as it refers to intellectual property, Law No. 1568 of 1953, Decree No. 32 of May 25, 1948, and Law No. 2834 of 1961, as well as Chapter IX, Section 6, of Title I of the second volume of the Commercial Code, and also any other enactment that is at variance with it.

162. This Law shall come into operation on its publication.