

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4772

To amend title 17, United States Code, to provide for the payment of royalties for the performance of sound recordings fixed before February 15, 1972, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 29, 2014

Mr. HOLDING (for himself, Mr. CONYERS, Mr. COBLE, Mrs. BLACKBURN, Ms. CHU, Mr. COOPER, Mr. DEUTCH, Mr. GOHMERT, and Mr. JEFFRIES) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 17, United States Code, to provide for the payment of royalties for the performance of sound recordings fixed before February 15, 1972, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Respecting Senior Per-  
5 formers as Essential Cultural Treasures Act” or the “RE-  
6 SPECT Act”.

1 **SEC. 2. PAYMENT FOR USE OF CERTAIN SOUND RECORD-**  
2 **INGS.**

3 Section 114(f)(4) of title 17, United States Code, is  
4 amended by adding at the end the following:

5 “(D)(i) Any person publicly performing sound  
6 recordings protected under this title by means of  
7 transmissions under a statutory license under this  
8 section, or making reproductions of such sound re-  
9 cordings under section 112(e), shall make royalty  
10 payments for transmissions that person makes of  
11 sound recordings that were fixed before February  
12 15, 1972, and reproductions that person makes of  
13 those sound recordings under the circumstances de-  
14 scribed in section 112(e)(1), in the same manner as  
15 such person does for sound recordings that are pro-  
16 tected under this title.

17 “(ii) If a person fails to make royalty payments  
18 described in clause (i) for sound recordings fixed be-  
19 fore February 15, 1972, there shall be available, in  
20 addition to any remedy that may be available under  
21 the laws of any State, a civil action in an appro-  
22 priate United States district court for recovery lim-  
23 ited to the payments described in clause (i), in addi-  
24 tion to interest, costs, and attorneys’ fees. Any such  
25 recovery that is obtained shall be offset against any

1 recovery for such violation that may be available  
2 under the laws of any State.

3 “(iii) No action may be brought under the laws  
4 of any State against a transmitting entity alleging  
5 infringement of a right equivalent to the right grant-  
6 ed in section 106(6) based on a public performance  
7 of a sound recording fixed before February 15,  
8 1972, or alleging infringement of a right equivalent  
9 to the right granted in section 106(1) based on a re-  
10 production of such a sound recording, if—

11 “(I) the performance would have been sub-  
12 ject to statutory licensing under subsection  
13 (d)(2) if the sound recording had been first  
14 fixed on or after February 15, 1972;

15 “(II) the reproduction would have been  
16 subject to statutory licensing under section  
17 112(e)(1) if the sound recording had been first  
18 fixed on or after February 15, 1972;

19 “(III) the transmitting entity has satisfied  
20 the requirements for statutory licensing under  
21 subparagraph (B) and section 112(e)(6); and

22 “(IV) the applicable royalty was paid and  
23 accounted for under this subparagraph.

24 “(iv) This subparagraph does not confer copy-  
25 right protection under this title upon sound record-

1       ings that were fixed before February 15, 1972. Such  
2       sound recordings are subject to the protection avail-  
3       able under the laws of the States, and except as pro-  
4       vided in clause (iii), are not subject to any limitation  
5       of rights or remedies, or any defense, provided under  
6       this title.

7               “(v) This subparagraph shall have no effect  
8       with respect to any public performance that is made  
9       of a sound recording, or reproduction that is made  
10      of a sound recording under the circumstances de-  
11      scribed in section 112(e)(1), on or after February  
12      15, 2067.”.

13 **SEC. 3. EFFECTIVE DATE.**

14       The amendments made by this Act shall apply to per-  
15      formances and reproductions of sound recordings occur-  
16      ring on or after the date of the enactment of this Act.

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