

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

# S. 2321

To amend title 17, United States Code, to ensure fairness in the establishment of certain rates and fees under sections 114 and 115 of such title, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 12, 2014

Mr. HATCH (for Mr. ALEXANDER (for himself, Mr. CORKER, and Mr. HATCH)) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend title 17, United States Code, to ensure fairness in the establishment of certain rates and fees under sections 114 and 115 of such title, 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 “Songwriter Equity Act  
5 of 2014”.

6 **SEC. 2. EFFECT ON ROYALTIES FOR UNDERLYING WORKS.**

7 Section 114(i) of title 17, United States Code, is  
8 amended to read as follows:

1       “(i) EFFECT ON ROYALTIES FOR UNDERLYING  
2 WORKS.—It is the intent of Congress that royalties pay-  
3 able to copyright owners of musical works for the public  
4 performance of their works shall not be diminished in any  
5 respect as a result of the rights granted in section  
6 106(6).”.

7 **SEC. 3. APPLICATION TO SECTIONS 112(e) AND 114(f) SOUND**  
8 **RECORDING PROCEEDINGS.**

9       (a) PROCEEDINGS NOT AFFECTED.—Neither section  
10 2 of this Act nor the amendment made to section 114(i)  
11 of title 17, United States Code, by such section 2 shall  
12 be taken into account in any proceeding to set or adjust  
13 the rates and fees payable for the use of sound recordings  
14 under section 112(e) or section 114(f) of such title that  
15 is pending on, or commenced on or after, the date of the  
16 enactment of this Act.

17       (b) DECISIONS AND PRECEDENTS NOT AFFECTED.—  
18 Neither section 2 of this Act nor the amendment made  
19 to section 114(i) of title 17, United States Code, by such  
20 section 2 shall have any effect upon the decisions, or the  
21 precedents established or relied upon, in any proceeding  
22 to set or adjust the rates and fees payable for the use  
23 of sound recordings under section 112(e) or section 114(f)  
24 of such title before the date of the enactment of this Act.

1 **SEC. 4. FUNCTIONS OF COPYRIGHT ROYALTY JUDGES.**

2 (a) IN GENERAL.—Section 801(b)(1) of title 17,  
3 United States Code, is amended by striking “The rates  
4 applicable under sections 114(f)(1)(B), 115, and 116 shall  
5 be calculated to achieve the following objectives” and in-  
6 serting “The rates applicable under sections 114(f)(1)(B)  
7 and 116 shall be calculated to achieve the following objec-  
8 tives”.

9 (b) EFFECTIVE DATE.—The amendment made by  
10 subsection (a) shall apply to any proceeding that is pend-  
11 ing on, or commenced on or after, the date of the enact-  
12 ment of this Act.

13 **SEC. 5. ROYALTY PAYABLE UNDER COMPULSORY LICENSE.**

14 (a) IN GENERAL.—Section 115(c)(3)(D) of title 17,  
15 United States Code, is amended by striking “In addition  
16 to the objectives set forth in section 801(b)(1), in estab-  
17 lishing such rates and terms, the Copyright Royalty  
18 Judges may consider rates and terms under voluntary li-  
19 cense agreements described in subparagraphs (B) and  
20 (C).” and inserting the following: “The Copyright Royalty  
21 Judges shall establish rates and terms that most clearly  
22 represent the rates and terms that would have been nego-  
23 tiated in the marketplace between a willing buyer and a  
24 willing seller. In establishing such rates and terms, the  
25 Copyright Royalty Judges shall base their decision on  
26 marketplace, economic, and use information presented by

1 the participants. In establishing such rates and terms, the  
2 Copyright Royalty Judges may consider the rates and  
3 terms for comparable uses and comparable circumstances  
4 under voluntary license agreements.”.

5 (b) EFFECTIVE DATE.—The amendment made by  
6 subsection (a) shall apply to any proceeding that is pend-  
7 ing on, or commenced on or after, the date of the enact-  
8 ment of this Act.

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