

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Ogles offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause
and insert in lieu thereof:

Section 1. Section 468.401, Florida Statutes, is
renumbered as section 501.940, Florida Statutes, and amended
to read:

501.940 ~~468.401~~ Regulation of Talent agencies;
definitions.--As used in this section ~~part or any rule adopted~~
~~pursuant hereto:~~

(1) "Talent agency" means any person who, for
compensation, engages in the occupation or business of
procuring or attempting to procure engagements for an artist.

~~(2) "Owner" means any partner in a partnership, member
of a firm, or principal officer or officers of a corporation,
whose partnership, firm, or corporation owns a talent agency,
or any individual who is the sole owner of a talent agency.~~

(2)~~(3)~~ "Compensation" means any one or more of the
following:

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1 (a) Any money or other valuable consideration paid or
2 promised to be paid for services rendered by any person
3 conducting the business of a talent agency under this section
4 ~~part~~;

5 (b) Any money received by any person in excess of that
6 which has been paid out by such person for transportation,
7 transfer of baggage, or board and lodging for any applicant
8 for employment; or

9 (c) The difference between the amount of money
10 received by any person who furnishes employees, performers, or
11 entertainers for circus, vaudeville, theatrical, or other
12 entertainments, exhibitions, engagements, or performances and
13 the amount paid by such person ~~him~~ to such employee,
14 performer, or entertainer.

15 ~~(3)(4)~~ "Engagement" means any employment or placement
16 of an artist, where the artist performs in his or her artistic
17 capacity. However, the term "engagement" shall not apply to
18 procuring opera, music, theater, or dance engagements for any
19 organization defined in s. 501(c)(3) of the Internal Revenue
20 Code or any nonprofit Florida arts organization that has
21 received a grant from the Division of Cultural Affairs of the
22 Department of State or has participated in the state touring
23 program of the Division of Cultural Affairs.

24 ~~(5) "Department" means the Department of Business and~~
25 ~~Professional Regulation.~~

26 ~~(6) "Operator" means the person who is or who will be~~
27 ~~in actual charge of a talent agency.~~

28 ~~(4)(7)~~ "Buyer" or "employer" means a person, company,
29 partnership, or corporation that uses the services of a talent
30 agency to provide artists.

31 ~~(5)(8)~~ "Artist" means a person performing on the

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1 professional stage or in the production of television, radio,
2 or motion pictures; a musician or group of musicians; or a
3 model.

4 (6)~~(9)~~ "Person" means any individual, company,
5 society, firm, partnership, association, corporation, manager,
6 or any agent or employee of any of the foregoing.

7 ~~(10) "License" means a license issued by the~~
8 ~~Department of Business and Professional Regulation to carry on~~
9 ~~the business of a talent agency under this part.~~

10 ~~(11) "Licensee" means a talent agency which holds a~~
11 ~~valid unrevoked and unforfeited license issued under this~~
12 ~~part.~~

13 Section 2. Section 501.941, Florida Statutes, is
14 renumbered as section 510.941, Florida Statutes, and amended
15 to read:

16 501.941 ~~468.412~~ Talent agency regulations; bond
17 required; violations, penalties, and remedies.--

18 (1) A talent agency shall maintain a record sheet for
19 each booking. This shall be the only required record of
20 placement and shall be kept for a period of 1 year after the
21 date of the last entry in the buyer's file.

22 (2) Each talent agency shall keep records in which
23 shall be entered:

24 (a) The name and address of each artist employing such
25 talent agency.†

26 (b) The amount of compensation fees received from each
27 such artist.†

28 (c) The employment in which each such artist is
29 engaged at the time of employing such talent agency and the
30 amount of compensation of the artist in such employment, if
31 any, and the engagements ~~employments~~ subsequently secured by

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1 such artist during the term of the contract between the artist
2 and the talent agency and the amount of compensation received
3 by the artist pursuant thereto, ~~and~~

4 ~~(d) Other information which the department may require~~
5 ~~from time to time.~~

6 (3) All money collected by a talent agency from an
7 employer or buyer for the benefit of an artist shall be paid
8 to the artist, less the talent agency's compensation, within 5
9 business days after the receipt of such money by the talent
10 agency. No talent agency is required to pay money to an
11 artist until the talent agency receives payment from the
12 employer or buyer.

13 (4) No talent agency may, as a condition of
14 registering or obtaining employment for any applicant or
15 artist, require the applicant or artist to purchase any
16 advertisement, videotape, or audiotape; subscribe to any
17 publication, postcard service, resume service, or photography
18 service; or attend any school or workshop, including any
19 acting school or workshop.

20 ~~(3) All books, records, and other papers kept pursuant~~
21 ~~to this act by any talent agency shall be open at all~~
22 ~~reasonable hours to the inspection of the department and its~~
23 ~~agents. Each talent agency shall furnish to the department,~~
24 ~~upon request, a true copy of such books, records, and papers,~~
25 ~~or any portion thereof, and shall make such reports as the~~
26 ~~department may prescribe from time to time.~~

27 ~~(4) Each talent agency shall post in a conspicuous~~
28 ~~place in the office of such talent agency a printed copy of~~
29 ~~this part and of the rules adopted under this part. Such~~
30 ~~copies shall also contain the name and address of the officer~~
31 ~~charged with enforcing this part. The department shall~~

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1 ~~furnish to talent agencies printed copies of any statute or~~
2 ~~rule required to be posted under this subsection.~~

3 (5) No talent agency may knowingly issue a contract
4 for employment containing any term or condition which, if
5 complied with, would be in violation of law, or attempt to
6 fill an order for help to be employed in violation of law.

7 (6) No talent agency may publish or cause to be
8 published any false, fraudulent, or misleading information,
9 representation, notice, or advertisement. All advertisements
10 of a talent agency by means of card, circulars, or signs, and
11 in newspapers and other publications, and all letterheads,
12 receipts, and blanks shall be printed and contain the ~~licensed~~
13 ~~name, department license number,~~ and address of the talent
14 agency and the words "talent agency." No talent agency may
15 give any false information or make any false promises or
16 representations concerning an engagement or employment to any
17 applicant who applies for an engagement or employment.

18 (7) No talent agency may send or cause to be sent any
19 person as an employee to any house of ill fame, to any house
20 or place of amusement for immoral purposes, to any place
21 resorted to for the purposes of prostitution, or to any place
22 for the modeling or photographing of a minor in the nude in
23 the absence of written permission from the minor's parents or
24 legal guardians, the character of which place, as applicable,
25 ~~places~~ the talent agency could have ascertained upon
26 reasonable inquiry.

27 (8) No talent agency may divide compensation fees with
28 anyone, including, but not limited to, an agent or other
29 employee of an employer, a buyer, a casting director, a
30 producer, a director, or any venue that uses entertainment.

31 (9) If a talent agency collects from an artist

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1 compensation ~~a fee~~ or expenses for obtaining employment for
2 the artist, and the artist fails to procure such employment,
3 or the artist fails to be paid for such employment if
4 procured, such talent agency shall, upon demand therefor,
5 repay to the artist the compensation ~~fee~~ and expenses so
6 collected. Unless repayment thereof is made within 48 hours
7 after demand therefor, the talent agency shall pay to the
8 artist an additional sum equal to the amount of the
9 compensation ~~fee~~.

10 (10) Each talent agency must maintain a permanent
11 office and must maintain regular operating hours at that
12 office.

13 (11) A talent agency may not charge a registration
14 fee.

15 (12) Prior to obtaining any engagement, or attempting
16 to obtain any engagement, for an artist, a talent agency shall
17 execute a written agreement with the artist which lists the
18 services to be provided and the compensation to be charged.
19 The talent agency shall give each applicant to the talent
20 agency a copy of a written agreement which lists the services
21 provided and the compensation to be charged.

22 (13)(a) Each talent agency shall acquire a surety bond
23 or an irrevocable letter of credit, executed by the talent
24 agency as principal, in the sum of \$5,000. The bond or letter
25 of credit shall provide that the talent agency is responsible
26 for the acts of any person under the talent agency's
27 supervision and shall be in effect at all times that the
28 talent agency is operating as a talent agency or soliciting
29 business as a talent agency.

30 (b) The bond or letter of credit must be in favor of
31 any person in a transaction who suffers any loss as a result

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1 of any violation of this part. The bond or letter of credit
2 must cover the period for which the principal is acting as a
3 talent agency. The aggregate liability of the surety may not
4 exceed the sum of the bond; or, in the case of a letter of
5 credit, the aggregate liability of the issuing bank may not
6 exceed the sum of the credit.

7 (c) A surety bond must be executed by a surety company
8 authorized to do business in the state as surety, and an
9 irrevocable letter of credit must be issued by a bank
10 authorized to do business in the state as a bank.

11 (d) An irrevocable letter of credit must be engaged by
12 a bank as an agreement to honor demands for payment as
13 specified in this section.

14 (e) Any person injured by the fraud, deceit, or
15 willful negligence of any talent agency or by the failure of
16 any talent agency to comply with this part or any other law
17 applicable to talent agencies may file an action for damages
18 upon the bond or letter of credit, as applicable, against the
19 principal and the surety or bank, as applicable.

20 (14) A talent agency may not commingle money or
21 property of another person with its own. Each talent agency
22 shall maintain a separate trust or escrow account in an
23 insured bank or savings and loan association located in this
24 state in which shall be deposited all money received from an
25 employer for the benefit of an artist. The artist shall be
26 paid before the talent agency can withdraw its compensation.

27 (15) No talent agency shall knowingly send any person
28 who has received an engagement to any place where a strike,
29 lockout, or other labor dispute is in active progress, without
30 first notifying that person of such conditions.

31 (16) A violation of this part shall be deemed an

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1 unfair or deceptive trade practice within the meaning of part
2 II of chapter 501, and all violations shall be subject to the
3 penalties and remedies provided in such part.

4 Section 3. Section 501.942, Florida Statutes, is
5 created to read:

6 501.942 Exemptions.--Any attorney who is performing
7 an activity defined in this section, shall not be subject to
8 the requirements set forth in this part and is exempted from
9 the penalties and remedies authorized by this section.

10 "Attorney" means an attorney in good standing before the
11 Florida Bar or in good standing before any other state's bar.

12 Section 4. Sections 468.405, 468.408, 468.411,
13 468.414, and 468.415, Florida Statutes, sections 468.402,
14 468.403, 468.404, 468.406, 468.407, 468.409, and 468.410,
15 Florida Statutes, as amended by chapter 94-119, Laws of
16 Florida, and section 468.413, Florida Statutes, as amended by
17 chapters 94-119 and 94-218, Laws of Florida, are hereby
18 repealed.

19 Section 5. This act shall take effect October 1, of
20 the year in which enacted.

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22
23 ===== T I T L E A M E N D M E N T =====

24 And the title is amended as follows:

25 On page ,
26 remove from the title of the bill: all of said lines

27
28 and insert in lieu thereof:

29 An act relating to talent agencies; amending
30 and renumbering s. 468.401, F.S. as 501.940,
31 F.S.; providing definitions; amending and

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1 renumbering s. 468.412, F.S. as s. 501.941;
2 providing requirements and prohibitions
3 associated with practicing as a talent agent;
4 providing that failure to comply is deemed an
5 unfair or deceptive practice under part II of
6 the ch 501; creating s. 501.942, F.S.;
7 exempting attorneys from penalties and remedies
8 provided in bill; repealing ss. 468.402,
9 468.403, 468.404, 468.405, 468.406, 468.407,
10 468.408, 468.409, 468.410, 468.411, 468.413,
11 468.414, 468.415, F.S.; providing an effective
12 date.

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