

1                   A bill to be entitled  
2           An act relating to talent agencies; amending  
3           and renumbering s. 468.401, F.S. as 501.940,  
4           F.S.; providing definitions; amending and  
5           renumbering s. 468.412, F.S. as s. 501.941;  
6           providing requirements and prohibitions  
7           associated with practicing as a talent agent;  
8           providing that failure to comply is deemed an  
9           unfair or deceptive practice under part II of  
10          the ch 501; creating s. 501.942, F.S.;  
11          exempting attorneys from penalties and remedies  
12          provided in bill; repealing ss. 468.402,  
13          468.403, 468.404, 468.405, 468.406, 468.407,  
14          468.408, 468.409, 468.410, 468.411, 468.413,  
15          468.414, 468.415, F.S.; providing an effective  
16          date.

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18 Be It Enacted by the Legislature of the State of Florida:

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

23           501.940 ~~468.401~~ ~~Regulation of~~ Talent agencies;  
24           definitions.--As used in this section ~~part or any rule adopted~~  
25           ~~pursuant hereto~~:

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

29           ~~(2) "Owner" means any partner in a partnership, member~~  
30           ~~of a firm, or principal officer or officers of a corporation,~~

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1 ~~whose partnership, firm, or corporation owns a talent agency,~~  
2 ~~or any individual who is the sole owner of a talent agency.~~

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

5 (a) Any money or other valuable consideration paid or  
6 promised to be paid for services rendered by any person  
7 conducting the business of a talent agency under this section  
8 ~~part~~;

9 (b) Any money received by any person in excess of that  
10 which has been paid out by such person for transportation,  
11 transfer of baggage, or board and lodging for any applicant  
12 for employment; or

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

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

28 ~~(5) "Department" means the Department of Business and~~  
29 ~~Professional Regulation.~~

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

1           ~~(4)(7)~~ "Buyer" or "employer" means a person, company,  
2 partnership, or corporation that uses the services of a talent  
3 agency to provide artists.

4           ~~(5)(8)~~ "Artist" means a person performing on the  
5 professional stage or in the production of television, radio,  
6 or motion pictures; a musician or group of musicians; or a  
7 model.

8           ~~(6)(9)~~ "Person" means any individual, company,  
9 society, firm, partnership, association, corporation, manager,  
10 or any agent or employee of any of the foregoing.

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

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

17           Section 2. Section 501.941, Florida Statutes, is  
18 renumbered as section 510.941, Florida Statutes, and amended  
19 to read:

20           501.941 ~~468.412~~ Talent agency regulations; bond  
21 required; violations, penalties, and remedies.--

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

26           (2) Each talent agency shall keep records in which  
27 shall be entered:

28           (a) The name and address of each artist employing such  
29 talent agency.~~†~~

30           (b) The amount of compensation ~~fees~~ received from each  
31 such artist.~~†~~

1 (c) The employment in which each such artist is  
2 engaged at the time of employing such talent agency and the  
3 amount of compensation of the artist in such employment, if  
4 any, and the engagements ~~employments~~ subsequently secured by  
5 such artist during the term of the contract between the artist  
6 and the talent agency and the amount of compensation received  
7 by the artist pursuant thereto, ~~and~~

8 ~~(d) Other information which the department may require~~  
9 ~~from time to time.~~

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

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

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

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1       ~~(4) Each talent agency shall post in a conspicuous~~  
2 ~~place in the office of such talent agency a printed copy of~~  
3 ~~this part and of the rules adopted under this part. Such~~  
4 ~~copies shall also contain the name and address of the officer~~  
5 ~~charged with enforcing this part. The department shall~~  
6 ~~furnish to talent agencies printed copies of any statute or~~  
7 ~~rule required to be posted under this subsection.~~

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

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

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

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

5 (9) If a talent agency collects from an artist  
6 compensation ~~a fee~~ or expenses for obtaining employment for  
7 the artist, and the artist fails to procure such employment,  
8 or the artist fails to be paid for such employment if  
9 procured, such talent agency shall, upon demand therefor,  
10 repay to the artist the compensation fee and expenses so  
11 collected. Unless repayment thereof is made within 48 hours  
12 after demand therefor, the talent agency shall pay to the  
13 artist an additional sum equal to the amount of the  
14 compensation fee.

15 (10) Each talent agency must maintain a permanent  
16 office and must maintain regular operating hours at that  
17 office.

18 (11) A talent agency may not charge a registration  
19 fee.

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

27 (13)(a) Each talent agency shall acquire a surety bond  
28 or an irrevocable letter of credit, executed by the talent  
29 agency as principal, in the sum of \$5,000. The bond or letter  
30 of credit shall provide that the talent agency is responsible  
31 for the acts of any person under the talent agency's

1 supervision and shall be in effect at all times that the  
2 talent agency is operating as a talent agency or soliciting  
3 business as a talent agency.

4 (b) The bond or letter of credit must be in favor of  
5 any person in a transaction who suffers any loss as a result  
6 of any violation of this part. The bond or letter of credit  
7 must cover the period for which the principal is acting as a  
8 talent agency. The aggregate liability of the surety may not  
9 exceed the sum of the bond; or, in the case of a letter of  
10 credit, the aggregate liability of the issuing bank may not  
11 exceed the sum of the credit.

12 (c) A surety bond must be executed by a surety company  
13 authorized to do business in the state as surety, and an  
14 irrevocable letter of credit must be issued by a bank  
15 authorized to do business in the state as a bank.

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

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

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

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

5           (16) A violation of this part shall be deemed an  
6 unfair or deceptive trade practice within the meaning of part  
7 II of chapter 501, and all violations shall be subject to the  
8 penalties and remedies provided in such part.

9           Section 3. Section 501.942, Florida Statutes, is  
10 created to read:

11           501.942 Exemptions.--Any attorney who is performing  
12 an activity defined in this section, shall not be subject to  
13 the requirements set forth in this part and is exempted from  
14 the penalties and remedies authorized by this section.

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

17           Section 4. Sections 468.405, 468.408, 468.411,  
18 468.414, and 468.415, Florida Statutes, sections 468.402,  
19 468.403, 468.404, 468.406, 468.407, 468.409, and 468.410,  
20 Florida Statutes, as amended by chapter 94-119, Laws of  
21 Florida, and section 468.413, Florida Statutes, as amended by  
22 chapters 94-119 and 94-218, Laws of Florida, are hereby  
23 repealed.

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