S T A T E O F N E W Y O R K

5105

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to certain personal service contracts protections

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative intent. It is the intention of this legislature to ensure that artists in our state are empowered to create and perform without the encumbrance of unreasonable and unduly restrictive covenants. The public invariably benefits when artists are free to create without restriction and are able to participate in the free market. Thus in the interest of personal and creative freedom for artists and to serve the public good, artists should not be bound by certain personal service contracts for excessive periods of time. It is undisputed that in its history, our state has long demonstrated steadfast support for the constitutional right of citizens to personal association, a right required for the true expression of artistic work. It is the legislature's sense that the creative arts contribute much to the economy of our state and the well being of its citizens. Certain measures are needed to ensure that working artists in New York are respected and valued and that their work continues to ennoble and enrich our culture, economy, and state.

S 2. This act shall be known and may be cited as the "Artistic Freedom Act".

S 3. The labor law is amended by adding a new article 20-D to read as follows:

ARTICLE 20-D

PERSONAL SERVICE CONTRACTS PROTECTIONS

SECTION 742. DEFINITIONS.
743. APPLICABILITY.
744. ENFORCEMENT.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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745. WAIVER.

S 742. DEFINITIONS. FOR THE PURPOSE OF THIS ARTICLE:

1. "ARTIST" SHALL MEAN ANY INDIVIDUAL WHO ENTERS INTO A CONTRACT TO RENDER PERSONAL SERVICE AS A SONGWRITER, COMPOSER, COMEDIAN, PRODUCER, MUSICIAN, VOCALIST, OR AS ANY OTHER PERFORMING ARTIST IN THE SOUND RECORDING INDUSTRY FOR AN EMPLOYER.

2. "EMPLOYER" SHALL MEAN ANY PERSON, FIRM, ASSOCIATION, COMPANY, LIMITED LIABILITY COMPANY, PARTNERSHIP, CORPORATION, CONTRACTOR OR OTHER ENTITY ENTERING INTO A CONTRACT WITH AN ARTIST FOR PERSONAL SERVICES IN THE SOUND RECORDING INDUSTRY.

3. "CONTRACT" SHALL MEAN AN AGREEMENT WHEREBY AN ARTIST AGREES TO RENDER PERSONAL SERVICES FOR CONSIDERATION, BUT SHALL NOT INCLUDE CONTRACTS BY OR ON BEHALF OF INFANTS WITHIN THE MEANING OF SECTION 35.03 OF THE ARTS AND CULTURAL AFFAIRS LAW.

S 743. APPLICABILITY. THIS ARTICLE APPLIES TO ALL RESIDENTS OF NEW YORK STATE AND ALSO APPLIES TO ALL CONTRACTS ENTERED INTO IN NEW YORK STATE.

S 744. ENFORCEMENT. A CONTRACT TO RENDER PERSONAL SERVICES EXECUTED BY AN ARTIST AND AN EMPLOYER SHALL BE ENFORCEABLE FOR A PERIOD OF NOT MORE THAN THREE YEARS FROM THE DATE OF EXECUTION, UNLESS THE ARTIST WAS REPRESENTED IN THE NEGOTIATION AND EXECUTION OF SUCH CONTRACT BY QUALIFIED COUNSEL EXPERIENCED WITH ENTERTAINMENT INDUSTRY LAW AND PRACTICES, IN WHICH CASE THE CONTRACT SHALL BE ENFORCEABLE FOR A PERIOD OF NOT MORE THAN SEVEN YEARS FROM THE DATE OF EXECUTION.

S 745. WAIVER. THE TIME FRAME ESTABLISHED BY THIS ARTICLE CONCERNING THE ENFORCEMENT OF CONTRACTS SHALL NOT BE WAIVED, AND ANY CLAUSE, COVENANT, OR AGREEMENT TO WAIVE SUCH TIME LIMIT SHALL BE NULL AND VOID AND MAY NOT BE ENFORCED AGAINST THE PARTIES IN ANY COURT OR OTHER ADJUDICATIVE PROCEEDING.

S 4. This act shall take effect immediately.