

STATE OF NEW YORK

7324

IN SENATE

January 5, 2018

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

AN ACT to amend the general business law and the arts and cultural affairs law, in relation to certain contracts

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 181 of the general business law, as amended by a
2 chapter of the laws of 2017, amending the general business law and the
3 arts and cultural affairs law relating to certain contracts, as proposed
4 in legislative bills numbers S.6369-A and A.8257-A, is amended to read
5 as follows:

6 § 181. Contracts, statements of terms and conditions, and receipts. It
7 shall be the duty of every employment agency to give to each applicant
8 for employment:

9 1. A true copy of every contract executed between such agency and such
10 applicant, which shall have printed on it or attached to it a statement
11 setting forth in a clear and concise manner the provisions of sections
12 one hundred eighty-five, and one hundred eighty-six of this article.

13 2. (a) For class "C" theatrical employment:

14 [~~(a)~~] (1) Such contract in blank shall be first approved by the
15 commissioner and his or her determination shall be reviewable by
16 certiorari. Each contract shall include the gross commission or fees to
17 be paid by the artist to the theatrical employment agency consistent
18 with section one hundred eighty-five of this article [~~attached, hereto~~].
19 Each such contract shall also include the name, address, phone number
20 and license number of the theatrical employment agency in addition to
21 the name of the artist, the type of services covered by the contract,
22 and all terms and conditions associated with the payment of such commis-
23 sion or fees. The theatrical employment agency shall keep on file a copy
24 of each contract entered into with an artist and provide a copy of each
25 contract to the artist.

26 [~~(b)~~] (2) Separate from the contract, the agency shall provide to the
27 artist, at the time of each audition or interview for specific employ-
28 ment, information as to the name and address of the person to whom the

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

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1 artist is to apply for such employment, the service to be performed, the
2 anticipated rate of compensation, where such compensation is known prior
3 to the audition or interview, and any other material terms and condi-
4 tions of such employment that are known by the agency prior to the audi-
5 tion or interview. Such information may be provided by electronic commu-
6 nication.

7 ~~[3-]~~ (b) For all other employment, including class "A" and "A-1"
8 employment, each contract shall include, but not be limited to, the
9 following: information as to the name and address of the person to whom
10 the applicant is to apply for such employment, the name, the address,
11 the mailing address, and the telephone number of the employer; the
12 address or addresses of employment, the kind of service to be performed;
13 the anticipated rate of wages or compensation; the anticipated hours of
14 work per day and number of days to be worked per week; the agency's fee
15 for the applicant based on such anticipated wages or compensation; any
16 provision to the employee, and costs associated with that provision
17 including housing, health insurance, healthcare, sick leave, holidays
18 and retirement benefits; whether such employment is permanent or tempo-
19 rary, the anticipated period of employment, the name and address of the
20 person authorizing the hiring of such applicant; and the cost of trans-
21 portation if the services are required outside of the city, town or
22 village where such agency is located. If the job is a conditionally
23 fee-paid job, the conditions under which the applicant will be required
24 to pay a fee shall be clearly set forth in a separate agreement in ten-
25 point type signed by the job applicant.

26 ~~[4-]~~ 3. (a) This paragraph shall apply to all classes of employment
27 except for class "C" theatrical employment. The employment agency shall
28 provide to each applicant, a separate document accompanying each
29 contract summarizing the terms and conditions of the contract. This
30 document shall be entitled "terms and conditions" and shall include the
31 language that the document is not a contract and that such document is
32 not legally binding. The terms and conditions shall be provided in plain
33 and commonly understood terms and language which shall aid the job
34 applicant in understanding the transaction and such document shall limit
35 the use of technical terms whenever possible.

36 (b) The terms and conditions shall conform to any templates estab-
37 lished by the commissioner and be made available to employment agencies
38 in such manner as determined by the commissioner. In developing such
39 templates, the commissioner shall afford the public an opportunity to
40 submit comments on such templates.

41 (c) The commissioner may promulgate rules and regulations necessary to
42 carry out the provisions of this section.

43 (d) An employment agency shall not be penalized for errors or omis-
44 sions in the non-English portions of any templates provided by the
45 commissioner.

46 ~~[5-]~~ 4. A receipt for any fee, deposit, consideration, or payment
47 which such agency receives from such applicant, which shall have printed
48 or written on it the name of the applicant, the name and address of the
49 employment agency, the date and amount of such fee, deposit, consider-
50 ation or payment or portion thereof for which the receipt is given, the
51 purpose for which it was paid, and the signature of the person receiving
52 such payment. If the applicant for employment has been recruited from
53 outside the state for domestic or household employment the receipt shall
54 have printed on it, or attached to it, a copy of section one hundred
55 eighty-four of this article. Except as provided below for class "C"
56 theatrical employment, the receipt shall also include, immediately above

1 the place for signature of the person receiving payment, set off in a
2 box and printed in bold capital letters, the following statement: "An
3 employment agency may not charge you, the job applicant, a fee before
4 referring you to a job that you accept. If you pay a fee before accept-
5 ing a job or pay a fee that otherwise violates the law, you may demand a
6 refund, which shall be repaid within seven days". For class "C" employ-
7 ment such receipt shall state: "A theatrical employment agency may not
8 charge you, the artist, a fee before referring you to a job that you
9 accept. A theatrical employment agency may charge you, the artist, a fee
10 after an agency represents you in the negotiation or renegotiation of an
11 original or pre-existing employment contract. If you pay a fee that
12 otherwise violates the law, you may demand a refund, which shall be
13 repaid within seven days".

14 ~~[6-]~~ 5. The completed original or duplicate-original copy of each such
15 contract, statement of terms and conditions, receipts, and any other
16 documents given to the applicant shall be retained by every employment
17 agency for three years following the date on which the contract is
18 executed or the payment is made, and shall be made available for
19 inspection by the commissioner or his or her duly authorized agent or
20 inspector, upon his or her request. Notwithstanding the other provisions
21 of such contracts, the monetary consideration to be paid by the appli-
22 cant shall not exceed the fee ceiling provided in subdivision eight of
23 section one hundred eighty-five of this article.

24 § 2. Section 37.03 of the arts and cultural affairs law, as amended by
25 a chapter of the laws of 2017, amending the general business law and the
26 arts and cultural affairs law relating to certain contracts, as proposed
27 in legislative bills numbers S.6369-A and A.8257-A, is amended to read
28 as follows:

29 § 37.03. Theatrical employment; contracts. Contracts between a theat-
30 rical employment agency and an artist shall include the gross commission
31 or fees to be paid by the artist to the theatrical employment agency
32 consistent with section one hundred eighty-five of the general business
33 law ~~[attached, hereto]~~. Such contracts shall contain no other condi-
34 tions and provisions except such as are equitable between the parties
35 thereto and do not constitute an unreasonable restriction of business.
36 In addition, such contracts in blank shall be first approved by the
37 commissioner of labor, except that in the city of New York, such
38 contracts in blank shall be first approved by the commissioner of
39 consumer affairs of such city, pursuant to section one hundred eighty-
40 nine of the general business law, and his or her determination shall be
41 reviewable by certiorari. Each such contract shall also include the
42 name, address, phone number and license number of the theatrical employ-
43 ment agency in addition to the name of the artist, the type of services
44 covered by the contract, and all terms and conditions associated with
45 the payment of such commission or fees. The theatrical employment agency
46 shall keep on file a copy of each contract entered into with an artist
47 and provide a copy of each contract to the artist. Separately from the
48 contract, the agency shall provide to the artist, at the time of each
49 audition or interview for specific employment, information as to the
50 name and address of the person to whom the artist is to apply for such
51 employment, the service to be performed, the anticipated rate of compen-
52 sation, where such compensation is known prior to the audition or inter-
53 view, and any other material terms and conditions of such employment
54 that are known by the agency prior to the audition or interview. Such
55 information may be provided by electronic communication.

1 § 3. This act shall take effect on the same date and in the same
2 manner as a chapter of the laws of 2017, amending the general business
3 law and the arts and cultural affairs law relating to certain contracts,
4 as proposed in legislative bills numbers S.6369-A and A.8257-A, takes
5 effect.