ASSEMBLY, No. 5738



STATE OF NEW JERSEY

219th LEGISLATURE



INTRODUCED MAY 17, 2021

Sponsored by:

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

SYNOPSIS

Establishes certain requirements for personal service contracts.

CURRENT VERSION OF TEXT

As introduced.



An Act concerning personal service contracts and supplementing Title 34 of the Revised Statutes.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. As used in this section:

“Actor” means an actor, stunt performer, voiceover performer, or any other performing artist rendering on-screen or off-screen performance services.

“Contract for personal services” means an employment contract that imposes a duty to render a service, as well as a duty to forbear from rendering the service to a competitor.

“Episodic series” means a series of two or more motion pictures, as defined in 17 U.S.C. s.101, produced for initial exhibition on television, streaming, or other distribution, but excluding motion pictures produced for initial theatrical distribution.

“Music product” means a phonorecord or sound recording, as defined in 17 U.S.C. s.101.

2. a. (1) A contract for the exclusive personal services of a recording artist shall not contain a term that includes option periods which extend more than six months after the earlier of:

(a) the satisfaction of the delivery obligation for a contract period by the recording artist; or

(b) the initial commercial release of the applicable music product.

(2) If the recording artist’s option has not been formally exercised within the time period specified in paragraph (1) of this subsection, the recording artist may, at any time, terminate the personal services agreement by sending notice to the contracting party.

b. (1) The initial term, including in aggregate any automatic renewal or extension terms, of a contract for the exclusive or first-priority personal services of an actor on an episodic series shall not extend for more than 12 months after the earlier of:

(a) the delivery to the employer or employer’s representative of the contract executed by or on behalf of the actor or the actor’s personal services company; or

(b) the actor’s commencement of performance services for the pilot of the episodic series, or the first episode of the first season or cycle of the episodic series if there is no pilot.

(2) If one or more contracts for the exclusive or first-priority personal services of an actor on an episodic series includes options for subsequent seasons or cycles, exercisable by any person other than the actor, then each option shall be exercised, and all of the actor’s performance services for each optioned season shall be completed, within 12 months after the completion of the prior season’s performance services by the actor.

(3) If an actor’s performance services will not be completed within the timeframes set forth in paragraph (1) or (2) of this subsection, the actor may, at any time, terminate the personal services agreement by sending notice to the contracting party.

c. This section shall not be waived in an individual negotiation, collective bargaining agreement, or other agreement.

d. Any provision in a contract that would deprive the recording artist or actor of the protections of this section shall be void.

e. This section shall apply to all unexercised option periods after January 1, 2022, regardless of the start date of the contract containing those option periods.

3. A contract to render personal service shall not be enforced against an employee beyond seven years from the commencement of service under the contract. If the employee voluntarily continues to serve under the contract beyond that time, the contract may be referred to as affording a presumptive measure of the compensation.

4. This act shall take effect on January 1, 2022.

STATEMENT

This bill establishes certain requirements for personal service contracts. Under the bill, a contract for personal services means an employment contract that imposes a duty to render a service, as well as a duty to forbear from rendering the service to a competitor.

The bill provides that a contract for the exclusive personal services of a recording artist may not contain a term that includes option periods which extend more than six months after the earlier of:

(1) the satisfaction of the delivery obligation for a contract period by the recording artist; or

(2) the initial commercial release of the applicable music product.

If the recording artist’s option has not been formally exercised within those time periods, the recording artist may, at any time, terminate the personal services agreement by sending notice to the contracting party.

The bill provides that the initial term, including in aggregate any automatic renewal or extension terms, of a contract for the exclusive or first-priority personal services of an actor on an episodic series may not extend for more than 12 months after the earlier of:

(1) the delivery to the employer or employer’s representative of the contract executed by or on behalf of the actor or the actor’s personal services company; or

(2) the actor’s commencement of performance services for the pilot of the episodic series, or the first episode of the first season or cycle of the episodic series if there is no pilot.

If a contract for the exclusive or first-priority personal services of an actor on an episodic series includes options for subsequent seasons or cycles, exercisable by any person other than the actor, then each option must be exercised, and all of the actor’s performance services for each optioned season must be completed, within 12 months after the completion of the prior season’s performance services by the actor.

If an actor’s performance services is not be completed within the timeframes set forth in the bill, the actor may, at any time, terminate the personal services agreement by sending notice to the contracting party.

The bill provides that these requires may not be waived in an individual negotiation, collective bargaining agreement, or other agreement. Any provision in a contract that would deprive the recording artist or actor of the protections of the bill is void.

The provisions of the bill applying to actors and recording artists apply to all unexercised option periods after January 1, 2022, regardless of the start date of the contract containing those option periods.

The bill also prohibits a contract to render personal service from being enforced against an employee beyond seven years from the commencement of service under the contract. If the employee voluntarily continues to serve under the contract beyond that time, the contract may be referred to as affording a presumptive measure of the compensation.