

Bill No. CS for CS for SB 750

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1 directing a talent agency or advance-fee talent
2 service to post an itemized schedule of maximum
3 fees, charges, or commissions that it intends
4 to charge and collect for its services;
5 providing for the location for posting of the
6 schedule; providing criminal penalties for
7 failing to post the fee schedule; requiring
8 that an artist and a talent agency or
9 advance-fee talent service enter into a written
10 contract when such entity agrees to perform
11 services for the artist; providing an exception
12 under specified circumstances; providing for
13 the content of the written contract; requiring
14 that a talent agency or advance-fee talent
15 service provide each artist with a copy of the
16 contract; requiring any person who holds
17 himself or herself out as an employee or agent
18 of a talent agency or advance-fee talent
19 service to submit fingerprints for background
20 screening requirements; directing that a talent
21 agency or advance-fee talent service provide
22 each artist with a copy of the screening
23 results; directing that all money collected by
24 a talent agency from an employer or buyer be
25 paid to the artist within a specified period;
26 providing that a contract is voidable under
27 certain circumstances; permitting an artist to
28 cancel a contract by giving written notice of
29 the cancellation to the talent agency or
30 advance-fee talent service within a specified
31 period; prohibiting an artist from waiving the

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1 right to cancel a contract; providing the way
2 in which a talent agency or advance-fee talent
3 service must refund money to an artist;
4 providing criminal penalties for violating
5 provisions relating to contracting; specifying
6 certain prohibited acts by a talent agency or
7 advance-fee talent service; providing criminal
8 penalties for failure to comply; providing for
9 certain specified civil remedies for violations
10 of the act; removing the authority of the
11 Department of Business and Professional
12 Regulation to regulate talent agencies;
13 providing for the use of certain funds after
14 the effective date of the act; requiring the
15 department to rebate talent agency license
16 fees; authorizing the department to continue to
17 prosecute any legal proceedings and related
18 administrative cases that are pending on the
19 effective date of the act; providing an
20 appropriation; providing an effective date.

21

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

23

24 Section 1. Part VII of chapter 468, Florida Statutes,
25 consisting of sections 468.401, 468.402, 468.403, 468.404,
26 468.405, 468.406, 468.407, 468.408, 468.409, 468.410, 468.411,
27 468.412, 468.413, 468.414, and 468.415, is repealed.

28 Section 2. No preemption of local government authority
29 to regulate.--Regulation of talent agencies is no longer
30 preempted by the state as of July 1, 2005. As such, any county
31 or municipality may adopt or enforce any ordinance that

1 regulates the licensure or operation of talent agencies or
2 advanced-fee talent services; however, such regulation must be
3 consistent with the provisions of this act.

4 Section 3. Definitions.--As used in sections 2 through
5 7 of this act, the term:

6 (1) "Advance-fee talent service" means a service
7 practiced by a person or business entity, or the person's or
8 business entity's employees or authorized agents, which
9 charges, attempts to charge, or receives an advance fee from
10 an artist for the purpose of promoting, but not procuring, the
11 employment or engagement of the artist. Promoting the
12 employment or engagement of an artist includes, but is not
13 limited to, the following activities:

14 (a) Promoting or advertising an artist to a casting
15 director, talent agency, talent manager, or any other person
16 represented to be in a position to offer assistance in
17 procuring engagements or employment for the artist.

18 (b) Promoting or advertising an artist by using the
19 Internet, trade publications, or other media.

20 (c) Registering or listing an artist for employment in
21 the entertainment industry or as a customer of the advance-fee
22 talent service.

23 (d) Managing, directing, developing, or advancing the
24 artist's career.

25 (e) Preparing the artist for employment through career
26 counseling or consulting, vocational guidance, aptitude
27 testing, or evaluation.

28 (2) "Advance fee" means a fee that is due from or paid
29 by an artist before the artist obtains employment as an artist
30 or before the artist receives earnings as an artist. An
31 advance fee also includes money paid by the artist which

1 exceeds the earnings received by the artist.

2 (a) An advance fee does not include reimbursement for
3 out-of-pocket costs actually incurred by an advance-fee talent
4 service on behalf of the artist when paying for services
5 rendered or goods provided to the artist by an independent
6 third party if all of the following conditions are met:

7 1. The advance-fee talent service does not have a
8 direct or an indirect financial interest in the third party.

9 2. The advance-fee talent service does not accept a
10 referral fee or other consideration from the third party.

11 3. The services rendered or goods provided for the
12 out-of-pocket costs are not represented to be, and are not, a
13 condition for the advance-fee talent service to register or
14 list the artist with the advance-fee talent service.

15 4. The advance-fee talent service maintains adequate
16 records documenting that any amount to be reimbursed to the
17 advance-fee talent service was actually advanced or owed to a
18 third party, that the third party is not a person in which the
19 advance-fee talent service has a direct or indirect financial
20 interest, and that the advance-fee talent service did not
21 receive any consideration for referring the artist.

22 (b) The burden of producing evidence to support a
23 defense based upon an exemption or an exception provided in
24 paragraph (a) is on the advance-fee talent service claiming
25 the exemption or exception.

26 (3) "Artist" means a person who seeks to become or is
27 an actor, actress, director, writer, cinematographer,
28 composer, lyricist, arranger, model, extra, or other person
29 rendering professional services on the legitimate stage or in
30 the production of motion pictures, radio productions,
31 musicals, television productions, print advertisements, or

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1 other entertainment enterprises.

2 (4) "Buyer" or "employer" means a person, company,
3 partnership, corporation, or other business entity that uses
4 the services of a talent agency or advance-fee talent service.

5 (5) "Compensation" means any one or more of the
6 following:

7 (a) Money or other valuable consideration paid or
8 promised to be paid for services rendered by an individual
9 conducting the business of a talent agency or an advance-fee
10 talent service;

11 (b) Money received by a person in excess of that which
12 has been paid by the person for transportation, transfer of
13 baggage, or board and lodging for an applicant for employment;
14 or

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

21 (6) "Divided fee" means the process by which, without
22 written contractual approval of the artist, any two or more
23 persons receive compensation for performing services for an
24 artist and the total compensation paid to these persons
25 exceeds the compensation that would have been paid to only one
26 person acting on behalf of the artist.

27 (7) "Engagement" means any employment or placement of
28 an artist during which the artist performs in his or her
29 artistic capacity. The term does not apply to procuring opera,
30 music, theater, or dance engagements for any nonprofit
31 organization defined in s. 501(c)(3) of the Internal Revenue

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1 Code or any nonprofit arts organization in this state which
2 has received a grant from the Division of Cultural Affairs of
3 the Department of State or has participated in the state
4 touring program of the Division of Cultural Affairs.

5 (8) "Operator" means the person who is or who will be
6 in actual charge of a talent agency or an advance-fee talent
7 service.

8 (9) "Owner" means a partner in a partnership, member
9 of a firm, or one or more principal officers of a corporation
10 whose partnership, firm, or corporation owns a talent agency
11 or an advance-fee talent service, or an individual who is the
12 sole owner of a talent agency or an advance-fee talent
13 service.

14 (10) "Talent agency" or "agency" means a business
15 entity or person who, for compensation, engages in the
16 occupation or business of procuring or attempting to procure
17 engagements for an artist and includes the agency's employees
18 and authorized agents.

19 Section 4. Bond required.--

20 (1) Each talent agency or advance-fee talent service
21 shall obtain a bond in the form of a surety by a reputable
22 company engaged in the bonding business which is authorized to
23 do business in this state. The bond must be for the penal sum
24 of not less than \$10,000 and be conditioned on the talent
25 agency or advance-fee talent service conforming to and not
26 violating any duty, term, condition, provision, or requirement
27 of this act.

28 (2) A talent agency or advance-fee talent service must
29 provide the artist with a copy of the bond.

30 (3) If a person fails to obtain or maintain a bond
31 according to this section, the person commits:

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1 (a) A misdemeanor of the second degree for a first
2 violation, punishable as provided in section 775.082 or
3 section 775.083, Florida Statutes.

4 (b) A misdemeanor of the first degree for a second or
5 subsequent violation, punishable as provided in section
6 775.082 or section 775.083, Florida Statutes.

7 Section 5. Office and records.--

8 (1) A talent agency or advance-fee talent service must
9 maintain a permanent office and must maintain regular
10 operating hours at that office. The office shall not be
11 located on or within any property where intoxicating liquor is
12 sold, where gambling is permitted, or where acts of
13 prostitution are committed.

14 (2) A talent agency or advance-fee talent service must
15 keep on file the application, registration, and fully executed
16 contract of each artist that the talent agency or advance-fee
17 talent service represents. The artist file of a talent agency
18 must also include the total amount of compensation received by
19 the artist, the amount of compensation received by the artist
20 for each performance, and documentation of all attempts made
21 by the talent agency to procure engagements for the artist.
22 The artist file of an advance-fee talent service must also
23 include documentation of all attempts to promote or advertise
24 the artist.

25 (3) A talent agency or advance-fee talent service
26 shall not knowingly make a false entry in an applicant's file
27 or receipt file.

28 (4) Each document in the file must be preserved for a
29 period of not less than 5 years after the date of the last
30 entry entered into the file.

31 (5)(a) All books, records, and other papers kept under

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1 this act by a talent agency or advance-fee talent service must
2 be open to the inspection of a state attorney, or the state
3 attorney's authorized agent, at any reasonable hour. The
4 talent agency or advance-fee talent service must give the
5 state attorney a true copy of the books, records, and papers,
6 or any portion thereof, when so requested.

7 (b) A person may not refuse to disclose any
8 information within his or her knowledge as required by this
9 subsection, or fail or refuse to produce any document, book,
10 or record for inspection which is in his or her possession, to
11 a state attorney or the state attorney's authorized agent.

12 (c) If a person fails or refuses to disclose
13 information to a state attorney as required by this
14 subsection, the person commits a misdemeanor of the second
15 degree, punishable as provided in section 775.082 or section
16 775.083, Florida Statutes.

17 (6) A talent agency must maintain records that contain
18 all of the following information or documents:

19 (a) The name and current address of each artist
20 employing the talent agency.

21 (b) The amount of commissions the talent agency has
22 received from each artist.

23 (c) A record sheet for each engagement obtained by the
24 talent agency. The record sheet is the only record required to
25 show engagements. The record sheet must be kept in the
26 artist's file for a period of not less than 5 years after the
27 date of the last record sheet that was posted in the artist's
28 file.

29 (d) The engagement the artist was performing in at the
30 time the artist was retained by the talent agency. The
31 documents must include the amount of compensation received by

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1 the artist from this engagement.

2 (e) The engagements the talent agency procured for the
3 artist after the artist and talent agency entered into a
4 contract. The documents must include the amount of
5 compensation received by the artist from the engagements
6 obtained for the artist during the life of the contract.

7 (7) An advance-fee talent service must maintain
8 records that contain all of the following information or
9 documents:

10 (a) The name and current address of each artist
11 employing the advance-fee talent service.

12 (b) The amount of the advance fees paid by or for the
13 artist during the term of the contract with the advance-fee
14 talent service.

15 (c) A record of all efforts made in promoting the
16 artist. A record of each effort to promote the artist must be
17 maintained in the artist's file for a period of not less than
18 5 years after the effort to promote the artist was made.

19 (8)(a) If a person fails to maintain a permanent
20 office and keep regular hours at that office, fails to
21 maintain records and files as required by this section, or
22 knowingly makes false entries in an artist's files, the person
23 commits:

24 1. A misdemeanor of the second degree for a first
25 violation, punishable as provided in section 775.082 or
26 section 775.083, Florida Statutes.

27 2. A misdemeanor of the first degree for a second or
28 subsequent violation, punishable as provided in section
29 775.082 or section 775.083, Florida Statutes.

30 (b) If a person establishes or keeps an office where
31 intoxicating liquor is sold, where gambling is permitted, or

1 where acts of prostitution are committed, the person commits a
 2 felony of the third degree, punishable as provided in section
 3 775.082, section 775.083, or section 775.084, Florida
 4 Statutes.

5 Section 6. Contracts and fees.--

6 (1) (a) A talent agency or advance-fee talent service
 7 shall post an itemized schedule of maximum fees, charges, or
 8 commissions that it intends to charge and collect for its
 9 services. The schedule must be posted in a conspicuous place
 10 in each place of business. The schedule must be printed in not
 11 less than 30-point boldfaced type.

12 (b) A talent agency that uses a written contract
 13 containing a schedule of its maximum fees, charges, and
 14 commissions is not required to post the schedule.

15 (c) If a person fails to post in a conspicuous place a
 16 schedule of the itemized fees, charges, and commissions, if
 17 required to do so, the person commits:

18 1. A misdemeanor of the second degree for a first
 19 violation, punishable as provided in section 775.082 or
 20 section 775.083, Florida Statutes.

21 2. A misdemeanor of the first degree for a second or
 22 subsequent violation, punishable as provided in section
 23 775.082 or section 775.083, Florida Statutes.

24 (2) An artist and a talent agency or advance-fee
 25 talent service must enter into a written contract when the
 26 parties agree that a talent agency or advance-fee talent
 27 service shall perform services for the artist. If the
 28 circumstances of the arrangement between the artist and the
 29 talent agency or advance-fee talent service prevent the
 30 execution of a contract before the artist performs, the artist
 31 and the talent agency or advance-fee talent service must

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1 execute the contract no later than 7 days after the first
2 performance.

3 (3) The contract must incorporate the full agreement
4 between the artist and the talent agency or advance-fee talent
5 service, be contained in a single document, and include the
6 elements set forth in this section.

7 (4) Each contract between an artist and an advance-fee
8 talent service must contain all of the following provisions:

9 (a) A description of the specific services to be
10 performed by the advance-fee talent service, the duration of
11 the contract, and the refund provisions if the services are
12 not provided according to the contract.

13 (b) A statement of the fees that the advance-fee
14 talent service will charge to or collect from the artist
15 receiving the services and the date or dates when the artist
16 must pay the fees.

17 (c) The following statement, in type no smaller than
18 10-point boldfaced type and in close proximity to the artist's
19 signature, must be included in each advance-fee talent service
20 contract:

21
22 RIGHT TO REFUND

23
24 If you pay in advance all or any portion of a
25 fee charged to you by (name of advance-fee
26 talent service) and you fail to receive the
27 services promised to you or that you were led
28 to believe would be performed, (name of
29 advance-fee talent service) shall, upon your
30 request, return the full amount paid by you
31 within 48 hours after your request for a

1 refund. If the refund is not made within 48
 2 hours, (name of advance-fee talent service)
 3 shall also pay to you, in addition to the
 4 refund due to you, a sum equal to the amount of
 5 the refund.

7 YOUR RIGHT TO CANCEL

8 (enter date of transaction)

10 You may cancel this contract for advance-fee
 11 talent services without any penalty or
 12 obligation if you give notice of the
 13 cancellation, in writing, no later than 14 days
 14 after the date of the transaction stated above.

15 If you wish to cancel the contract, you must
 16 mail or deliver a signed and dated copy of the
 17 following cancellation notice, another written
 18 document notifying the advance-fee talent
 19 service that you intend to cancel the contract,
 20 or send a telegram, fax, or e-mail notifying
 21 the advance-fee talent service that you intend
 22 to cancel the contract, to (name of advance-fee
 23 talent service) at (address of its place of
 24 business) NOT LATER THAN MIDNIGHT AFTER (enter
 25 the date).

27 ONLY A TALENT AGENCY MAY ENGAGE IN THE
 28 OCCUPATION OF PROCURING, OFFERING, PROMISING,
 29 OR ATTEMPTING TO PROCURE EMPLOYMENT OR
 30 ENGAGEMENTS FOR AN ARTIST.

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CANCELLATION NOTICE

I hereby cancel this contract.

Dated:

Artist Signature.

(5) A talent agency or advance-fee talent service must give each artist a copy of the signed or authenticated contract listing the services to be provided and the fees, charges, or commissions to be charged at the time the contract is signed.

(6) A talent agency or advance-fee talent service must give each artist a copy of this act at the time the contract is signed.

(7)(a) All money collected by a talent agency from an employer or buyer for the benefit of an artist must be paid to the artist within 7 business days after receiving the money from the employer. The talent agency may reduce the amount paid to the artist by the talent agency's commission.

(b) A talent agency is not required to pay money to an artist until the talent agency receives payment from the employer or buyer.

(8) A contract entered into by a talent agency or advance-fee talent service which does not conform to this act is voidable by the artist. If an artist voids a contract with a talent agency or advance-fee talent service, the artist is not required to pay or return any consideration received from the talent agency or advance-fee talent service to induce the

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1 artist to enter into the contract.

2 (9) An artist may cancel a contract with a talent
3 agency or advance-fee talent service by giving written notice
4 of the cancellation to the talent agency or advance-fee talent
5 service no later than 14 days after the date of transaction.
6 If an artist cancels a contract, the artist is not required to
7 pay or return any consideration received from the talent
8 agency or advance-fee talent service to induce the artist to
9 enter into the contract.

10 (10) An artist shall not waive the right to cancel a
11 contract with a talent agency or advance-fee talent service as
12 provided in this act. Any attempt by a talent agency or
13 advance-fee talent service to induce an artist to waive the
14 artist's right to cancel the contract is a violation of this
15 act.

16 (11)(a) If an artist gives consideration to a talent
17 agency to be used for expenses to obtain a specific engagement
18 or employment and the talent agency fails to procure the
19 specific engagement or employment for the artist, the talent
20 agency shall, upon the artist's demand, repay all
21 consideration paid by the artist.

22 (b) The talent agency must refund the consideration to
23 the artist no later than 48 hours after receiving the demand
24 from the artist. If the talent agency does not refund the
25 artist within the prescribed time period, the talent agency
26 must pay the artist a penalty that is equal to the amount of
27 all consideration paid to the talent agency.

28 (12) An advance-fee talent service must refund fees as
29 follows:

30 (a) If the artist does not receive the services
31 promised or the services the artist was led to believe would

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1 be performed, the advance-fee talent service must, upon the
2 artist's demand, refund the artist any fees collected by the
3 advance-fee talent service for those services. The advance-fee
4 talent service must make the refund to the artist no later
5 than 48 hours after the artist demands the refund. If the
6 advance-fee talent service does not refund the artist within
7 the prescribed time period, the advance-fee talent service
8 must pay the artist a penalty that is equal to the amount of
9 all fees paid to the advance-fee talent service.

10 (b) If an artist cancels the contract, the advance-fee
11 talent service must refund in full all fees paid by the
12 artist. The advance-fee talent service must refund the fees no
13 later than 14 days after the artist cancels the contract. If
14 the advance-fee talent service does not refund the artist
15 within the prescribed time period, the advance-fee talent
16 service must pay the artist a penalty that is equal to the
17 amount of all fees paid to the advance-fee talent service.

18 (13) A talent agency or advance-fee talent service
19 that violates subsections (2)-(6) commits:

20 (a) A misdemeanor of the second degree for a first
21 violation, punishable as provided in section 775.082 or
22 section 775.083, Florida Statutes.

23 (b) A misdemeanor of the first degree for a second or
24 subsequent violation, punishable as provided in section
25 775.082 or section 775.083, Florida Statutes.

26 Section 7. Fingerprinting requirements.--

27 (1) Before owning, operating, soliciting business for,
28 or otherwise engaging in or carrying on the business of a
29 talent agency or advance-fee talent service in this state,
30 each agent, owner, operator, or other person who is acting as
31 or has a financial interest in a talent agency or advance-fee

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1 talent service must submit a full set of fingerprints as
2 required by subsection (2) and must obtain and maintain a
3 letter, as provided in paragraph (5)(a), from the Department
4 of Business and Professional Regulation documenting that the
5 results of the criminal history check do not disqualify the
6 agent, owner, operator, or other person who is acting as or
7 has a financial interest in a talent agency or advance-fee
8 talent service.

9 (2) Each owner of a talent agency or advance-fee
10 talent service shall submit to the Department of Business and
11 Professional Regulation a full set of fingerprints, along with
12 all applicable fees for processing and maintenance, of each
13 agent, owner, operator, or other person having a financial
14 interest in the talent agency or advance-fee talent service.

15 (3) The fingerprint card or electronic fingerprints
16 must be forwarded to the Department of Law Enforcement for
17 purposes of processing the fingerprints to determine if the
18 individual has a state criminal history record. The
19 fingerprints must also be forwarded to the Federal Bureau of
20 Investigation for purposes of processing the fingerprints to
21 determine if the individual has a national criminal history
22 record. The information obtained by the processing of the
23 fingerprints by the Department of Law Enforcement and the
24 Federal Bureau of Investigation shall be sent to the
25 Department of Business and Professional Regulation for the
26 purpose of determining if any agent, owner, operator, or other
27 person having a financial interest in the talent agency or
28 advance-fee talent service has been found guilty of,
29 regardless of adjudication, or entered a plea of nolo
30 contendere or guilty to sexual battery, lewd acts, or other
31 sexual misconduct proscribed in chapter 800, Florida Statutes,

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1 or in section 794.011, section 827.071, section 847.012,
2 section 847.0125, section 847.013, section 847.0133, or
3 section 847.0145, Florida Statutes.

4 (4) The cost for the fingerprint processing shall be
5 borne by the person subject to the criminal history record
6 check. The fingerprint processing and maintenance fee shall be
7 collected by the Department of Business and Professional
8 Regulation through a process established by rule in an amount
9 not to exceed \$100. The Department of Law Enforcement shall
10 render a bill to the Department of Business and Professional
11 Regulation for the fingerprints submitted by the Department of
12 Business and Professional Regulation each month.

13 (5) Upon receipt and review of each criminal history
14 record, the Department of Business and Professional Regulation
15 shall, within 30 days, issue a letter to the talent agency or
16 advance-fee talent service notifying the talent agency or
17 advance-fee talent service:

18 (a) That the results of the criminal history check do
19 not disqualify the agent, owner, operator, or other person who
20 is acting as or has a financial interest in a talent agency or
21 advance-fee talent service; or

22 (b) That the results of the criminal history check
23 disqualify the agent, owner, operator, or other person who is
24 acting as or has a financial interest in a talent agency or
25 advance-fee talent service.

26 (6) Each talent agency and advance-fee talent service
27 must give the artist a copy of the letter issued by the
28 Department of Business and Professional Regulation documenting
29 that the results of the criminal history check do not
30 disqualify the agent, owner, operator, or other person who is
31 acting as or has a financial interest in a talent agency or

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1 advance-fee talent service, as provided under paragraph
2 (5) (a), before executing a contract with an artist. The letter
3 must have been issued within the previous 36 months.

4 (7) If any talent agency or advance-fee talent service
5 agent, owner, or operator, or any other person who is acting
6 as or has a financial interest in a talent agency or
7 advance-fee talent service, fails to submit fingerprints for
8 the background check as required by this subsection, the
9 person commits a felony of the second degree, punishable as
10 provided in section 775.082, section 775.083, or section
11 775.084, Florida Statutes.

12 Section 8. Prohibitions and penalties.--

13 (1) (a) A person, business entity, talent agency, or
14 advance-fee talent service shall not accept an advance fee for
15 procuring, offering, promising, or attempting to procure
16 employment or engagements for an artist.

17 (b) A person, business entity, talent agency, or
18 advance-fee talent service that violates this subsection
19 commits a felony of the third degree, punishable as provided
20 in section 775.082, section 775.083, or section 775.084,
21 Florida Statutes.

22 (2) (a) An advance-fee talent service shall not make
23 any false statement, representation, promise, or implication
24 by its choice of name that it is a talent agency. An
25 advance-fee talent service shall not state, promise, or
26 represent that it will procure, or attempt to procure,
27 employment or engagements for the artist.

28 (b) A person or advance-fee talent service that
29 violates this subsection commits a felony of the third degree,
30 punishable as provided in section 775.082, section 775.083, or
31 section 775.084, Florida Statutes.

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1 (3)(a) A person, talent agency, or advance-fee talent
2 service, or an owner, operator, employee, or agent of a talent
3 agency or advance-fee talent service, shall not:

4 1. Give an artist false information, make a false
5 promise or misrepresentation concerning any engagement or
6 employment, or make a false or misleading verbal or written
7 promise or guarantee of any engagement as an artist.

8 2. Print, publish, distribute, or cause, authorize, or
9 knowingly permit the making, printing, publication, or
10 distribution of any false statement, description, or promise
11 that would reasonably induce a person to act to his or her
12 damage or injury.

13 3. Knowingly commit, or be a party to, any material
14 fraud, misrepresentation, concealment, conspiracy, collusion,
15 trick, scheme, or device whereby any other person lawfully
16 relying upon the work, representation, or conduct of the
17 talent agency or advance-fee talent service acts or has acted
18 to his or her injury or damage.

19 4. Commit fraud or deceit in the operation of a talent
20 agency or advance-fee talent service.

21 5. Conspire with another talent agency or advance-fee
22 talent service or with another person to commit an act that
23 coerces, intimidates, or precludes another talent agency or
24 advance-fee talent service from advertising its services.

25 6. Solicit business, either personally or through any
26 other person, using fraud, deception, or misleading statements
27 or through the exercise of intimidation or undue influence.

28 7. Exercise undue influence on the artist in order to
29 exploit the artist for the financial gain of the talent
30 agency, advance-fee talent service, or a third party.

31 8. Commit sexual misconduct with an artist. An owner,

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1 operator, employee, or agent of the talent agency or
2 advance-fee talent service shall not use the artist-agent
3 relationship to induce or attempt to induce the artist to
4 engage or attempt to engage in sexual activity.

5 9. Employ an employee, agent, owner, operator, or
6 other person with a financial interest who has been convicted
7 of sexual battery, lewd acts, or other sexual misconduct
8 proscribed in chapter 800, Florida Statutes, or in section
9 794.011, section 827.071, section 847.012, section 847.0125,
10 section 847.013, section 847.0133, or section 847.0145,
11 Florida Statutes.

12 10. Send, or cause to send, an artist to a house of
13 ill fame, a house or place of amusement for immoral purposes,
14 a place where prostitution is performed, or a place for the
15 modeling or photographing of a minor in the nude, the
16 character of which could have been ascertained upon reasonable
17 inquiry by the talent agency or advance-fee talent service.
18 For the purposes of this paragraph, the term "modeling or
19 photographing of a minor in the nude" means the visual display
20 of the buttocks, genitals, or female breast, areolae, or
21 nipples of a person younger than 18 years of age.

22 (b) A person, talent agency, or advance-fee talent
23 service that violates this subsection commits a felony of the
24 third degree, punishable as provided in section 775.082,
25 section 775.083, or section 775.084, Florida Statutes.

26 (4)(a) A person, talent agency, or advance-fee talent
27 service shall not:

28 1. Make, or cause to be made, any false, misleading,
29 or deceptive advertisement or representation concerning the
30 services the artist will receive or the costs the artist will
31 incur.

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1 2. Publish or cause to be published any false,
2 fraudulent, or misleading information, representation, notice,
3 or advertisement.

4 3. Charge, collect, or receive compensation for any
5 service performed by the talent agency or advance-fee talent
6 service greater than the charge, fee, or compensation
7 specified in its schedule of maximum fees, charges, and
8 commissions.

9 4. Advertise goods or services in a manner that is
10 fraudulent, false, deceptive, or misleading in form or
11 content.

12 5. Permit, aid, assist, procure, or advise a person to
13 operate a talent agency or advance-fee talent service contrary
14 to this act.

15 6. Fail to perform any statutory or legal obligation
16 required by law for a talent agency or advance-fee talent
17 service.

18 7. Require the applicant or artist to subscribe to or
19 purchase any publication, postcard service, advertisement,
20 resume service, photography service, website service, or video
21 or audiotapes, or attend any school, acting school, workshop,
22 or acting class as a condition to performing services for an
23 applicant or artist.

24 8. Charge or attempt to charge, directly or
25 indirectly, an artist for creating or providing photographs,
26 filmstrips, videotapes, audition tapes, demonstration reels,
27 talent brochures, or other reproductions of the artist, or for
28 providing costumes, lessons, coaching, or similar training for
29 the artist.

30 9. Refer an artist to a person who charges the artist
31 a fee for the services described in this act in which the

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1 talent agency or advance-fee talent service has a direct or
2 indirect financial interest.

3 10. Accept any compensation for referring an artist to
4 a person charging the artist a fee for the services described
5 in this act.

6 11. Knowingly issue a contract containing any term or
7 condition that, if complied with, would be in violation of
8 law.

9 12. Knowingly send or influence an artist to go to a
10 prospective employer or place of business the character or
11 operation of which the talent agency or advance-fee talent
12 service knows to be in violation of the laws of the United
13 States or this state.

14 13. Divide fees with anyone, including, but not
15 limited to, an agent or other employee of an employer, buyer,
16 casting director, producer, or director.

17 14. Fail to maintain records required by this act or
18 knowingly making false entries in the records.

19 15. Fail, either before or at the time of executing a
20 contract, to give the artist a copy of the signed or
21 authenticated contract listing the services to be provided; an
22 itemized schedule of maximum fees, charges, and commissions
23 that it intends to charge and collect for its services; a copy
24 of this act; a copy of the letter from the Department of
25 Business and Professional Regulation indicating the results of
26 the criminal history record; and a copy of a bond.

27 16. Charge a registration fee, except as permitted for
28 advance-fee talent services.

29 17. Fail to notify an artist that there is a strike,
30 lockout, or other labor dispute in active progress before
31 sending the artist to an engagement.

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1 (b) A person, talent agency, or advance-fee talent
2 service that violates this subsection commits:

3 1. A misdemeanor of the second degree for a first
4 violation, punishable as provided in section 775.082 or
5 section 775.083, Florida Statutes.

6 2. A misdemeanor of the first degree for a second or
7 subsequent violation, punishable as provided in section
8 775.082 or section 775.083, Florida Statutes.

9 Section 9. Remedies.--

10 (1)(a) If a state attorney believes there is probable
11 cause that a talent agency, advanced-fee talent service, or
12 other person has violated subsection (1), subsection (2), or
13 subsection (3) of section 8, the state attorney may file a
14 civil action in the circuit court to enjoin the talent agency,
15 advanced-fee talent service, or other person from continuing
16 the violation or doing any act in furtherance thereof, and for
17 such other relief as the court deems appropriate.

18 (b) A state attorney may file a civil action in
19 circuit court upon the sworn affidavit of a person alleging a
20 violation of this act. The court may grant a temporary or
21 permanent injunction restraining any talent agency,
22 advanced-fee talent service, or other person from violating
23 this act and the injunction shall issue without bond.

24 (2)(a) If an artist or other person is injured by the
25 misconduct of a talent agency or advance-fee talent service,
26 the artist may file a civil action in his or her own name upon
27 the bond of the talent agency or advance-fee talent service in
28 any court having jurisdiction of the amount claimed.

29 (b) The artist or other person filing the complaint
30 may bring the action for temporary or permanent injunctive
31 relief and may seek other relief, including, but not limited

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1 to, restitution for damages, court costs, a civil penalty not
2 to exceed \$5,000 for each violation, treble damages for
3 injured parties, and reasonable attorney's fees.

4 (c) Any claim made by an artist or other person is
5 assignable, and the assignee is entitled to the same remedies
6 upon the bond of the talent agency or advance-fee talent
7 service or otherwise as the artist or other person aggrieved
8 would be entitled to if the claim had not been assigned. A
9 claim so assigned may be enforced in the name of the assignee.

10 (3) The remedies provided in this section are
11 cumulative and not exclusive of any other remedy provided by
12 law.

13 Section 10. The regulation of talent agencies by the
14 Department of Business and Professional Regulation is
15 abolished. Any funds and balances associated with the
16 regulation of talent agencies remaining in the Professional
17 Regulation Trust Fund after July 1, 2005, shall be used to pay
18 any remaining expenses associated with this regulation. The
19 department shall rebate talent agency license fees, on a pro
20 rata basis, for the period beginning July 1, 2005, through the
21 period for which license fees have been paid. If the account
22 is in a deficit balance, the funds may be provided from the
23 General Revenue Fund. Another profession regulated by the
24 Department of Business and Professional Regulation shall not
25 be assessed the cost of any refund. Any funds or balances
26 remaining in the trust fund after January 1, 2006, shall be
27 transferred to the General Revenue Fund.

28 Section 11. The Department of Business and
29 Professional Regulation may continue to prosecute any legal
30 proceedings and related administrative cases that are pending
31 on July 1, 2005.

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1 Section 12. For fiscal year 2005-2006, the sum of
2 \$59,331 in nonrecurring funds is appropriated to the
3 Department of Business and Professional Regulation from the
4 General Revenue Fund to provide pro rata rebates of license
5 fees paid by registrants.

6 Section 13. This act shall take effect July 1, 2005.

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