

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.



1 **AN ACT** concerning personal service contracts and supplementing
2 Title 34 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. As used in this section:

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

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

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

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

20

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

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

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

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

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

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

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

43 (2) If one or more contracts for the exclusive or first-priority
44 personal services of an actor on an episodic series includes options
45 for subsequent seasons or cycles, exercisable by any person other
46 than the actor, then each option shall be exercised, and all of the
47 actor’s performance services for each optioned season shall be

1 completed, within 12 months after the completion of the prior
2 season's performance services by the actor.

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

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

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

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

14
15 3. A contract to render personal service shall not be enforced
16 against an employee beyond seven years from the commencement
17 of service under the contract. If the employee voluntarily continues
18 to serve under the contract beyond that time, the contract may be
19 referred to as affording a presumptive measure of the compensation.

20
21 4. This act shall take effect on January 1, 2022.

22 23 24 STATEMENT

25
26 This bill establishes certain requirements for personal service
27 contracts. Under the bill, a contract for personal services means an
28 employment contract that imposes a duty to render a service, as
29 well as a duty to forbear from rendering the service to a competitor.

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

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

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

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

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

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

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

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

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

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

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

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