



## **PROTECT ARTISTS AND CALIFORNIA MUSIC!**

*Reject flawed proposals to dictate the terms of record deals by statute in ways that would reduce advance payments and opportunities for working artists and new acts, limit flexibility, innovation, and artist choice, and weaken California's economic recovery*

Under California's current law, recording artists are thriving in a vibrant, growing music business – with robust advances, greater opportunities, and more pathways to success than ever.

Contracts currently allow creative and commercial flexibility while protecting artists by limiting personal-services obligations under record deals to a maximum 7 years.

By abandoning this strong, well-working framework and freezing deal terms in inflexible statutory text, the harmful, unnecessary proposals circulating in Sacramento would:

- Reduce advances for all but the biggest superstars;
- Make it harder for new artists to get signed and divert time, resources and funding needed to break new acts to those who have already made it;
- Erect new obstacles for diverse, innovative, and less commercial voices and genres; and
- Undermine California's economic recovery by eliminating high-wage recording, touring and other music-related jobs.

### **Background on Recent Proposals to Change the Terms of Recording Contracts by Statute**

- Record contracts typically require an artist to deliver a certain number of records and give the label "options" for more. California law currently limits these contracts – like all personal services contracts – to seven years, but if an artist fails to deliver the records they promised (and were paid for) for during the contract period, the record company can seek to recover its losses.

- Proposals currently circulating in Sacramento would eliminate any recourse if an artist fails to deliver promised recordings during the seven year period, while dictating new substantive terms governing contract renegotiation.
- These proposals also appear to change the rules for exclusive employment contracts in the state – not just covering creative industries but for all California businesses.
- These proposals would mark the third time California’s legislature has considered changes to the current landscape for recording contracts.
  - After a full legislative process in the early 2000s, the legislature decided the proposed changes would hurt working artists and undermine the state’s creative economy and left the existing labor code provisions in place.
  - Last session, a similar bill was introduced but failed to receive a hearing or committee vote and was recently withdrawn.
  - This bad idea does not deserve a third bite at the apple.

## **The Legislature Should Again Reject Flawed Proposals That Would Hurt Working Artists and Wrongly Freeze Contract Terms in Law**

### **I. A Threat to California's Music Ecosystem and the Vast Majority of Artists in the State**

- ***Reduced Investment in Artists*** – Record companies invest significant human and financial resources – including billions of dollars each year – in artists, casting a wide net and helping new talent and voices develop and thrive. But these proposals would introduce massive new uncertainty deterring and shrinking these investments, leading to reduced artist advances and a drop in signing, developing and promoting new acts.
- ***Fewer Opportunities for Aspiring Artists*** – Record contracts are album-based, not time- based: they are creative partnerships between labels and artists, but, in the end, it’s in the artist’s practical control whether they deliver promised recordings and on what schedule. Removing any recourse for a record label if an artist chooses to terminate after seven years yet fails to deliver what was promised and paid for would have predictable results: fewer artists will get record deals and those who do will be paid less.
- ***A Threat to Diverse Voices and Genres*** – By disincentivizing financial risks for labels, these proposals would hurt diverse voices, non-commercial genres and artists seeking to break new ground and take creative risks. Acts without an obvious and immediate path to commercial success would be unviable. Vital but less commercial genres like jazz, classical, gospel, folk and Tejano could wither.
- ***Undermining California’s Economic Recovery*** – Music currently adds nearly \$40 billion to California’s GDP, supporting over 430,000 jobs and 72,000 venues in communities across the state. Destabilizing a major California industry would drive down

pay and reduce opportunity for thousands of working artists and the businesses that support them, including studios, venues and vendors.

## II. Don't Fix What's Not Broken – California Law is Working Better Than Ever for Artists

- **Artists Are ALREADY Protected by California's Seven-Year Rule** – This is legislation in search of a problem: already under California law, recording artists CANNOT be forced to stay with a label longer than seven years. If an artist fails to deliver recordings they agreed to produce, a label can seek to recover damages, but still cannot hold that artist to any personal services obligation past seven years.
  - This creates strong incentives for both sides to perform during the life of a recording contract, allowing flexibility for labels to routinely renegotiate contracts mid-term and pay new and larger advances and higher royalty rates (even when artists are already under contract).
  - Replacing this simple background rule with inflexible and unworkable terms that must be included for a recording contract to be considered “renegotiated” under the statute would only limit options for artists and frustrate deal-making to no one's benefit.
  - Overriding private negotiations between professionally represented parties and dictating specific contract terms by statute would gut the existing and well-working framework for recording deals and breach core principles of free market choice that seek to encourage negotiated agreements.
- **Record Setting Advances and Royalties** – The current system is producing robust advances and royalties and record payments to artists. California should build on that success, not undermine it.
- **An Unnecessary and Counterproductive Giveaway to a Handful of the Most Successful Acts** – This bill will only benefit a small number of commercially successful, established superstars by giving them even greater leverage to threaten not to deliver under existing contracts. Meanwhile, most working artists will see lower advances and fewer options exercised.
- **An Unconstitutional Waste of Time** – By purporting to change the terms of existing music contracts, these proposals are plainly unconstitutional and would mire the music industry in years of costly and harmful litigation.
- **A Threat That Goes Far Beyond Music** – Current drafts circulating in Sacramento would make sweeping changes to exclusivity clauses in any business in the state – with deeply unpredictable consequences for industries like finance, technology, real estate, and more. Further evidence that these flawed proposals haven't been fully vetted or thought through.