



April 14, 2021

The Honorable Ash Kalra, Chair
Assembly Committee on Labor & Employment
State Capitol
Sacramento, CA 95814

Re: AB 1385 (Gonzalez)/OPPOSE

Dear Assembly Member Kalra:

As members of California's world-leading music community, we are writing to voice our deep opposition to AB 1385, a flawed and unnecessary proposal that would destabilize California's music business, cut opportunities for working artists, and weaken the state's economic recovery.

Recording contracts are – and have always been – subject to California's seven-year limitation on personal service contracts. Recording contracts typically require an artist to deliver to the record company at least one firm album and several optional albums over the term of the contract. Under the current seven-year rule, if an artist fails to deliver the contractually-agreed albums (despite, in many cases, having already received an advance for those albums), the record company can seek to recover its losses – just as any party to a contract can normally do when the other party fails to fulfill its end of the bargain. This creates strong incentives for both sides to deliver as promised during the life of a recording contract.

AB 1385 would make two major changes to the law that would upend this balance: it would eliminate any recourse for the record company if an artist fails to deliver promised recordings; and it would force record companies to decide whether to exercise options for subsequent records within six months of the previous album. If enacted, AB 1385 would harm California's music ecosystem and the vast majority of our state's artists. In particular, AB 1385 would:

Reduce investment in artists. Record companies invest significant human and financial resources in artists to help them achieve their creative and commercial potential. AB 1385 introduces new uncertainty that will disincentivize these investments, leading to lower advance payments to artists, fewer artist signings, and reduced development and promotion of new acts.

Reduce opportunities for aspiring artists. By removing any recourse for a record label if an artist chooses to end their contract after seven years yet fails to deliver the recordings promised in their contract, AB 1385 greatly increases the financial risk for record companies. This will have predictable results: fewer artists will be signed to record deals and those who do will be paid less.

Put artists "on the clock." Today's model allows artists and labels flexibility in the recording schedule and to decide when a record is ready for delivery. By forcing premature option decisions on an unreasonably narrow timeframe, AB 1385 will force artists to truncate tours, limit development and marketing opportunities, and, perversely, motivate labels not to exercise options.

Pose a threat to diverse voices and genres. By disincentivizing financial risks for labels, AB 1385 would hurt diverse voices, niche 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 would wither.

Undermine California's economic recovery. Music currently adds nearly \$40 billion annually to California's GDP, supporting over 430,000 jobs and 72,000 venues across the state. Destabilizing a major California industry will drive down pay and penalize thousands of working artists and the businesses that support them.

In addition, by purporting to change the terms of existing music contracts, AB 1385 is almost certainly unconstitutional and would mire the music industry in years of costly and harmful litigation.

AB 1385 would gut the existing framework at the heart of every record contract and upend the existing healthy ecosystem, benefitting only a small number of commercially successful, established superstars. This legislation represents a purported "solution" in search of a problem and risks doing severe harm just as our state's music community is starting to enjoy real momentum after years of decline. California is today an undisputed music capital of the world. The current system is producing the highest artist advances and royalties in the history of the music business.

Respectfully, we implore you in the strongest terms to oppose this misguided legislation. We deeply appreciate your consideration on this important matter.

Sincerely,

Astralwerks Records
Blue Note Records
Capitol Music Group
Disa Records
Fonovisa Records
Harvest Records
Interscope Geffen A&M
Motown Records
Recording Industry Association of America (RIAA)
Rhino Records
Sony Music Entertainment
Universal Music Enterprises
Universal Music Group
Universal Music Latin Entertainment
Virgin Label and Artist Services
Virgin Records
Warner Chappell Music
Warner Music Group
Warner Records

cc: The Honorable Lorena Gonzalez
Honorable Members, Asm. Comm. on Labor & Employment
Megan Lane/Martin Vindiola, Consultants, Asm. Comm. on Labor & Employment
George Wiley/Mary Kaems, Speaker's Policy Unit
Lauren Prichard, Consultant, Asm. Republican Caucus
