

1 This chapter is known as the "Talent Agency Professional Licensing Act."

2 Section 2. Section **58-75-102** is enacted to read:

3 **58-75-102. Definitions.**

4 In addition to the definitions in Section 58-1-102, as used in this chapter:

5 (1) "Board" means the Talent Agency Licensing Board created in Section 58-75-201.

6 (2) "Client" means a person whose employment or services are brokered by a talent
7 agency.

8 (3) "Practice of a talent agency" means the brokering of the employment or services of
9 creative people, such as actors, models, writers, musicians, extras, and variety artists.

10 (4) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-75-501.

11 (5) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-75-502.

12 Section 3. Section **58-75-103** is enacted to read:

13 **58-75-103. Payments to be held in trust -- Trustee qualifications.**

14 (1) (a) Monies received by a talent agent that are owed to a client shall be deposited by the
15 talent agency receiving the payment into a trust account within three business days after the date
16 the payment is received.

17 (b) A talent agency shall distribute to a client the monies owed the client that were
18 deposited in a trust account under Subsection (1)(a) within ten business days after the date the
19 payment has been honored upon presentment.

20 (2) The trust account required under Subsection (1):

21 (a) shall name as trustee a Utah financial institution authorized to engage in the trust
22 business under Title 7, Chapter 5, Trust Business; and

23 (b) may not be interest bearing.

24 (3) A talent agency may not commingle monies in a trust account with any other monies
25 of the talent agency.

26 Section 4. Section **58-75-104** is enacted to read:

27 **58-75-104. Business hours.**

28 A talent agency shall maintain an office that:

29 (1) is open at a minimum between normal business hours, as defined by the division; and

30 (2) can be accessed by telephone or through other communication services.

31 Section 5. Section **58-75-201** is enacted to read:

Part 2. Board

58-75-201. Board.

(1) There is created the Talent Agency Licensing Board consisting of:

(a) two representatives of talent agencies;

(b) one representative of clients of talent agencies;

(c) one representative of a person who receives employment or services brokered by a talent agency; and

(d) one member of the general public.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

(3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203. In addition, the board shall designate one of its members on a permanent or rotating basis to:

(a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

(b) advise the division in its investigation of these complaints.

(4) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer of an administrative proceeding concerning the complaint.

Section 6. Section **58-75-301** is enacted to read:

Part 3. Licensing

58-75-301. Licensure required -- License classifications.

(1) A license is required to engage in the practice of a talent agency, except as specifically provided in Section 58-1-307.

(2) The division shall issue to a person who qualifies under this chapter a license in the classification of talent agency.

Section 7. Section **58-75-302** is enacted to read:

58-75-302. Qualifications for licensure.

Each applicant for licensure under this chapter shall:

(1) submit an application in a form prescribed by the division;

(2) pay a fee determined by the department under Section 63-38-3.2;

(3) post a bond, letter of credit, certificate of deposit, or cash deposit with the division in

1 an amount equal to \$1,000, in a bond form acceptable to the division, and under a written
 2 agreement with the division, providing for forfeiture and subsequent disbursement of the proceeds
 3 from the bond, letter of credit, certificate of deposit, or the cash deposit to the division, in
 4 accordance with rule, if the applicant or licensee fails to comply with this chapter; and
 5 (4) provide to the division evidence of financial responsibility which shall include
 6 financial statements and other information that the division may reasonably require to determine
 7 that the applicant or licensee is able to competently perform as and meet the obligations of a talent
 8 agent in the state.

9 Section 8. Section **58-75-303** is enacted to read:

10 **58-75-303. Term of license -- Expiration -- Renewal.**

11 (1) The division shall issue each license under this chapter in accordance with a two-year
 12 renewal cycle established by rule. The division may by rule extend or shorten a renewal cycle by
 13 as much as one year to stagger the renewal cycles it administers.

14 (2) At the time of renewal, the licensee shall show satisfactory evidence of the renewal
 15 requirements established by the division by rule.

16 (3) Each license automatically expires on the expiration date shown on the license unless
 17 the licensee renews it in accordance with Section 58-1-308.

18 Section 9. Section **58-75-401** is enacted to read:

19 **Part 4. License Denial and Discipline**

20 **58-75-401. Grounds for denial of license -- Disciplinary proceedings.**

21 Grounds for refusing to issue a license to an applicant, for refusing to renew the license of
 22 a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee,
 23 for issuing a public or private reprimand to a licensee, and for issuing a cease and desist order shall
 24 be in accordance with Section 58-1-401.

25 Section 10. Section **58-75-501** is enacted to read:

26 **Part 5. Unlawful and Unprofessional Conduct -- Penalties**

27 **58-75-501. Unlawful Conduct.**

28 "Unlawful conduct" is as defined in Subsection 58-1-501(1)

29 Section 11. Section **58-75-502** is enacted to read:

30 **58-75-502. Unprofessional Conduct.**

31 (1) "Unprofessional conduct" includes:

- 1 (a) accepting commissions from both the client of a talent agency and from the person who
- 2 employs or receives services from the client brokered by the talent agency;
- 3 (b) seeking a commission from a client that is not:
- 4 (i) negotiated in advance of brokering employment or an engagement for the client; and
- 5 (ii) based on a predetermined percentage of the clients gross salary;
- 6 (c) failure to disclose within three business days of securing employment or an
- 7 engagement for a client:
- 8 (i) the exact amount of monies received from the person that hires the client;
- 9 (ii) the total commission charged by the talent agency; and
- 10 (iii) the salary to be paid to the client for the clients service;
- 11 (d) securing employment or an engagement for a client that is in violation of state or
- 12 federal labor laws, including laws regulating the employment of minors;
- 13 (e) requiring a client to use a specific photographer, coach, or video or audio technician;
- 14 and
- 15 (f) failure to comply with Section 58-75-103 or 58-75-104.
- 16 (2) Notwithstanding Subsection (1)(a), a talent agency may receive compensation from
- 17 a person other than the client if the services are:
- 18 (a) distinct from and not conditioned on the client's employment or provision of services;
- 19 and
- 20 (b) billed separately.

Legislative Review Note
as of 2-18-98 5:34 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel