

OCCUPATIONS CODE

TITLE 13. SPORTS, AMUSEMENTS, AND ENTERTAINMENT

SUBTITLE C. ARTS AND MUSIC

CHAPTER 2102. COLLECTION OF ROYALTIES ON NONDRAMATIC MUSICAL WORKS

Sec. 2102.001. DEFINITIONS. In this chapter:

(1) "Copyright owner" means the owner of a copyright of a nondramatic musical work recognized and enforceable under federal copyright laws (17 U.S.C. Section 101 et seq.).

(2) "Performing rights society" means an association or corporation that licenses the public performance of nondramatic musical works for copyright owners, including the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), and SESAC, Inc. (SESAC).

(3) "Proprietor" means the owner or operator of a retail establishment in this state where the public may assemble and where nondramatic musical works may be performed, broadcast, or otherwise transmitted, including a restaurant, inn, bar, tavern, or other similar place of business.

(4) "Royalty" means a fee payable to a performing rights society for public performance rights.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 2102.002. APPLICATION OF CHAPTER. This chapter does not apply to:

(1) a contract:

(A) between a performing rights society and a broadcaster licensed by the Federal Communications Commission; or

(B) with a cable operator, programmer, or other transmission service;

(2) conduct engaged in for the enforcement of Section 641.054 and, to the extent applicable, Section 641.056, Business & Commerce Code; or

(3) the owner of a copyright of a motion picture or an audiovisual work.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.30, eff. April 1, 2009.

Sec. 2102.003. REQUIRED DISCLOSURES. A performing rights society may not contract or offer to contract for the payment of royalties by a proprietor unless, at the time of the offer or any subsequent time, but not later than 72 hours before the execution of the contract, the performing rights society provides the proprietor, in writing, the following:

(1) rates and terms of royalties to be collected under the contract;

(2) at the proprietor's request, the opportunity to review the most current available list of the members or affiliates represented by the society;

(3) notice that the society will make available, on the proprietor's written request and at the proprietor's sole expense, the most current available list of the copyrighted musical works in the performing rights society's repertory; and

(4) notice that the society will identify the method for securing the list.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 2102.004. REQUIRED CONTRACT TERMS. A contract between a performing rights society and a proprietor for the payment of royalties executed in this state must:

(1) be in writing;

(2) be signed by the parties; and

(3) include the following information:

(A) the proprietor's name and business address;

(B) the name and location of each place of business to which the contract applies;

(C) the name and address of the performing rights society;

(D) the duration of the contract; and

(E) the rates and terms of royalties to be collected under the contract, including any sliding scale or schedule for any increase or decrease of those rates for the

duration of the contract.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 2102.005. IMPROPER COLLECTIONS PRACTICES. A performing rights society or the society's agent or employee may not collect or attempt to collect from a proprietor licensed by that society a royalty payment except as provided by a contract executed under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 2102.006. ENFORCEMENT. A person aggrieved by a violation of this chapter may:

(1) bring an action to recover actual damages and reasonable attorney's fees; and

(2) seek an injunction or other remedy available at law or in equity.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.