

## **BILL ANALYSIS**

C.S.S.B. 846  
By: Janek  
Business & Industry  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Art dealers frequently obtain works of art from artists under a true consignment arrangement in which the dealer does not purchase the artwork from the artist, but is given the authority to sell it on the artist's behalf. The dealer is then obligated to remit some portion of the sale proceeds to the artist. Current law recognizes the utility of these arrangements and provides that these pieces of artwork are not subject to a dealer's creditors under current law. Current law is unclear as to whether musicians are included in the definition of "artist."

As proposed, Senate Bill No. 846 includes recording artists in the definition of "artists" in the Occupations Code, therefore protecting their products and proceeds from the claims of the record companies' and distributors' creditors.

### **RULEMAKING AUTHORITY**

It is the opinion of the Committee on Business and Industry that this bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION-BY-SECTION ANALYSIS**

SECTION 1. Amends Section 2101.002, Occupations Code, to redefine "artist," and define "recording artist" and "sound recording."

SECTION 2. Amends Chapter 2101, Occupations Code, by adding Section 2101.004, as follows:

Sec. 2101.004. CONSIGNED SOUND RECORDINGS EXEMPT FROM CERTAIN LIENS OR CLAIMS. (a) Provides that, notwithstanding any provision of the Business & Commerce Code, a sound recording delivered by the artist who produced the music or other sound on the recording to a recording distributor for sale and the proceeds from the recording distributor's sale of the sound recording are not subject to a claim, lien, or security interest of a creditor of the recording distributor.

(b) Provides that, except as provided by Subsection (c), this section applies to the proceeds of a sale of a sound recording regardless of whether the recording distributor or another person purchased the work.

(c) Provides that this section does not apply to the proceeds of a sale of a sound recording if the artist delivered the recording to the recording distributor pursuant to a sale for which the artist has been paid in full.

SECTION 3. Amends Section 9.102(a)(20), Business & Commerce Code, to redefine "consignment."

SECTION 4. Effective date: upon passage or September 1, 2005.

**EFFECTIVE DATE**

Upon passage or September 1, 2005.

**COMPARISON OF ORIGINAL TO SUBSTITUTE**

The committee substitute for Senate Bill No. 846 adds a provision amending the definition of "art" under Section 2101.002(1), Occupations Code, to include "sound recording of musical performance", and deletes the provision amending the definition of "artist" in the same section.