CHAPTER 549

MUSIC LICENSING FEES

Referred to in §669.14

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549.1 Short title.

This chapter may be cited as the *"Music Licensing Fees Act"*.

96 Acts, ch 1155, §1

549.2 Definitions.

As used in this chapter:

1. *"Copyright owner"* means the owner of a copyright of a nondramatic musical work recognized and enforceable under the copyright laws of the United States under 17 U.S.C. §101 et seq.

2. *"Performing rights society"* means an association or corporation, including an agent or employee of the association or corporation, that licenses the public performance of a nondramatic musical work on behalf of a copyright owner, including the American society of composers, authors and publishers (ASCAP), broadcast music, inc. (BMI), and the society of European stage authors and composers, inc. (SESAC).

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

4. *"Royalty"* or *"royalties"* means the license fee or fees payable by a proprietor to a performing rights society for the public performance of a nondramatic musical work.

96 Acts, ch 1155, §2

549.3 Licensing negotiations.

1. A performing rights society shall not enter onto the business premises of a proprietor for the purpose of discussing a contract for the payment of royalties by the proprietor, unless the performing rights society identifies itself to the proprietor and describes to the proprietor the purpose for entering onto the proprietor's business premises.

2. A performing rights society shall not enter into, or offer to enter into, a contract for the payment of royalties by a proprietor unless at the time of the offer, or any later time, but not later than seventy-two hours prior to the execution of the contract, the performing rights society provides to the proprietor, in writing, all of the following:

a. A schedule of the rates and terms of royalties under the contract.

b. Upon the request of the proprietor, the opportunity to review the most current available list of the members or affiliates represented by the performing rights society.

c. Notice that the performing rights society will make available, upon the written request of a proprietor, at the sole expense of the proprietor, the most current available listing of the copyrighted nondramatic musical or similar works in the performing rights society's repertory, provided that the notice shall specify the means by which the listing can be secured.

d. Notice that the performing rights society complies with federal law and orders of courts having appropriate jurisdiction regarding the rates and terms of royalties and the circumstances under which licenses for rights of public performance are offered to any proprietor.

96 Acts, ch 1155, §3

549.4 Royalty contract requirements.

A contract for the payment of royalties between a performing rights society and a proprietor executed in this state shall meet all of the following requirements:

1. Be in writing.
2. Be signed by the parties.
3. Include, at a minimum, the following information:

a. The proprietor's name and business address and the name and location of each place of business to which the contract applies.

b. The name of the performing rights society.

c. The duration of the contract.

d. The schedule of rates and terms of the royalties to be collected under the contract, including any sliding scale or schedule for any increase or decrease of rates for the duration of the contract.

96 Acts, ch 1155, §4

549.5 Improper licensing practices.

A performing rights society shall not collect, or attempt to collect, from a proprietor licensed by that performing rights society, a royalty payment except as provided in a contract executed pursuant to the provisions of this chapter.

96 Acts, ch 1155, §5

549.6 Investigations.

This chapter shall not be construed to prohibit a performing rights society from conducting investigations to determine the existence of music use by a proprietor or informing a proprietor of the proprietor's obligations under the federal copyright law, 17 U.S.C. §101 et seq.

96 Acts, ch 1155, §6

549.7 Remedies — injunction.

A person who suffers a violation of this chapter may bring an action to recover actual damages and reasonable attorney fees and to seek an injunction or any other available remedy.

96 Acts, ch 1155, §7

549.8 Remedies cumulative.

The rights, remedies, and prohibitions contained in this chapter shall be in addition to and cumulative of any other right, remedy, or prohibition accorded by common law or state or federal law. This chapter shall not be construed to deny, abrogate, or impair any such common law or statutory right, remedy, or prohibition.

96 Acts, ch 1155, §8

549.9 Exceptions.

This chapter shall not apply to a contract between a performing rights society or a copyright owner and a broadcaster licensed by the federal communications commission, or to a contract with a cable operator, programmer, or other transmission service. This chapter shall not apply to a nondramatic musical or similar work performed in synchronization with an audio or visual film or tape. This chapter shall also not apply to the gathering of information to determine compliance with or activities related to the enforcement of section 714.15.

96 Acts, ch 1155, §9