

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997

As Engrossed: H2/25/97 H2/27/97

## A Bill

HOUSE BILL 1783

4  
5 *By: Representatives Wallis and Lynn*

### For An Act To Be Entitled

9 "AN ACT RELATING TO CERTAIN BUSINESS PRACTICES USED IN THE  
10 COLLECTION OF COPYRIGHT ROYALTIES; AND PROVIDING  
11 PENALTIES; AND FOR OTHER PURPOSES."

### Subtitle

14 "AN ACT RELATING TO CERTAIN BUSINESS  
15 PRACTICES USED IN THE COLLECTION OF  
16 COPYRIGHT ROYALTIES; AND PROVIDING  
17 PENALTIES."

18  
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 SECTION 1. SHORT TITLE. This act may be cited as the "Copyright  
22 Royalty Collection Practices Act".

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24 SECTION 2. DEFINITIONS. In this act:

25 (1) Copyright owner means the owner of a copyright of a musical work,  
26 other than a motion picture or audiovisual work, recognized and enforceable  
27 under the copyright laws of the United States pursuant to Title 17 of the  
28 United States Code, Pub. L 94-554 (17 U.S.C. Section 101 et seq.).

29 (2) Performing rights society means an association or corporation that  
30 licenses the nondramatic public performance of musical works on behalf of  
31 copyright owners, such as the American Society of Composers, Authors and  
32 Publishers (ASCAP); Broadcast Music, Inc. (BMI); and SESAC, Inc. (SESAC).

33 (3) Proprietor means the owner or operator of a retail establishment,  
34 restaurant, inn, bar, tavern, or other similar place of business located in  
35 this state in which the public may assemble and in which musical works may be  
36 performed, broadcast, or otherwise transmitted.

1       (4) Royalty or Royalties means the fees payable to a performing  
2 rights society for public performance rights.

3

4       SECTION 3. LICENSING NEGOTIATIONS. No performing rights society shall  
5 offer to enter into or enter into a contract for the payment of royalties by a  
6 proprietor unless, at the time of the offer, or any time thereafter, but no  
7 later than seventy-two (72) hours prior to the execution of that contract, it  
8 provides to the proprietor, in writing, the following:

9       (1) a schedule of the rates and terms of royalties under the contract;

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

13       (3) notice that it will make available, on written request of any  
14 proprietor, at the sole expense of the proprietor, the most current available  
15 listing of the copyrighted musical works in the performing rights societys  
16 repertory, provided that the notice specifies the means by which such  
17 information can be secured;

18       (4) a toll free number that the proprietor can use to obtain answers to  
19 specific questions concerning the performing rights societys repertoire.

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21       SECTION 4. FORM OF CONTRACT. Every contract between a performing  
22 rights society and proprietor for the payment of royalties executed in this  
23 state shall:

24       (1) be in writing;

25       (2) be signed by the parties;

26       (3) include at least the following information:

27               (A) the proprietors name and business address and the name and  
28 location of each place of business to which the contract applies;

29               (B) the name and address of the performing rights society;

30               (C) the duration of the contract;

31               (D) the schedule of rates and terms of the royalties to be  
32 collected under the contract including any sliding scale or schedule for any  
33 increase or decrease of those rates for the duration of that contract.

34

35       SECTION 5. IMPROPER LICENSING PRACTICES. No performing rights society,  
36 or any agent or employee thereof shall collect or attempt to collect from a

1 proprietor licensed by that performing rights society a royalty payment except  
2 as provided in a contract executed pursuant to the provisions of this act.

3

4 SECTION 6. CODE OF CONDUCT. No performing rights society, or any  
5 agent, employee or representative thereof shall:

6 (1) engage in any coercive act or practice that is disruptive of  
7 proprietors business; or

8 (2) enter onto the premises of a proprietors business for the purpose  
9 of discussing or inquiring about a contract for payment of royalties for the  
10 use of copyrighted works by that proprietor, without first identifying himself  
11 or herself to the proprietor or to the proprietors management employees,  
12 including showing his or her photo identification card and disclosing that he  
13 or she is acting on behalf of the performing rights society and disclosing the  
14 purpose of the entry.

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16 SECTION 7. CIVIL REMEDIES; INJUNCTION. Any person who suffers a  
17 violation of this act may bring an action to recover actual damages and  
18 reasonable attorneys fees and seek an injunction or any other remedy  
19 available at law or in equity.

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21 SECTION 8. APPLICATION. This act shall not apply to contracts between  
22 performing rights societies and broadcasters licensed by the Federal  
23 Communications Commission, or to contracts with cable operators, programmers,  
24 or other transmission services. This act does not apply to investigations by  
25 law enforcement officers or other persons concerning a suspected violation of  
26 Arkansas Code § 5-37-510(c).

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28 SECTION 9. All provisions of this act of a general and permanent nature  
29 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
30 Revision Commission shall incorporate the same in the Code.

31

32 SECTION 10. If any provision of this act or the application thereof to  
33 any person or circumstance is held invalid, such invalidity shall not affect  
34 other provisions or applications of the act which can be given effect without  
35 the invalid provision or application, and to this end the provisions of this  
36 act are declared to be severable.

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SECTION 11. All laws and parts of laws in conflict with this act are hereby repealed.

*/s/Rep. Wallis, et al*