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Press Release

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NEW PHOENIX CENTER ANALYSIS FINDS THAT PROPOSED CALIFORNIA LAW WILL HARM MUSIC CREATORS

Proposed legislation would make contracts between labels and artists nearly unenforceable, reducing the incentive for record labels to invest in recording artists and potentially depressing California's music economy by as much as $600 million a year

WASHINGTON, D.C. — Over the past two decades, digital piracy has wreaked havoc on the music industry, with industry revenues falling over 60% between 1999 and 2009. Despite rising income from streaming services, even today total revenues (in real dollars) for the music industry remain suppressed. Adding misery to an already challenging situation, the Covid pandemic has decimated musicians' ability to earn income from live performances.

Yet instead of working to sustain and strengthen California's music business, new legislation has been proposed that could meaningfully alter the ability of record labels and recording artists to craft suitable, voluntary contracts for recorded music (AB-1385) in the state. First, the bill aims to prohibit the labels from seeking damages for contractual non-performance (e.g., the failure to produce an agreed-upon number of albums). Second, the bill imposes a statutory limit (six months) on the exercise of options for more recordings by successful recording artists. Proponents of California's Assembly Bill AB-1385 claim that the bill helps struggling artists by strengthening their position in negotiations with record labels. Economic analysis suggests otherwise.

In a new study released today entitled *The Day the Music Died (in California): An Analysis of California Assembly Bill AB-1385,* the Phoenix Center's economists examine the proposed law and find that AB-1385 makes contracts between labels and recording artists nearly unenforceable, reducing the incentive for record labels to invest in artists, especially new artists and artists serving less-popular genres. The bill, if passed, will reduce recording artists' income. The Phoenix Center's economists also demonstrate that statutory limits on the exercise of options reduces recording artists' income, since the revelation of commercial success supporting higher compensation to the artists typically takes longer the six months. Accordingly, the Phoenix Center's economists conclude that AB-1385, if passed, likely will lead to a sizable contraction in the music business in California, as both labels and artists are incented move to states where meaningful, voluntary contracts may be crafted and enforced.

"Between digital piracy and Covid, the music community has been decimated. Artists deserve a break," says study co-author and Phoenix Center Chief Economist Dr. George S. Ford. "But AB-

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1385 is just piling on. It is demonstrably counter to the long-term interest of artists by making them nearly unemployable in California."

"AB-1385 is to the music industry what California's AB-5 was to the gig economy," added study co-author and Phoenix Center Senior Fellow Professor T. Randolph Beard. "If AB-1385 becomes law, then the effort to unwind it will begin soon thereafter when its predictable consequences arise. Californians will have to issue another reprimand to their state government."

A full copy of PHOENIX CENTER POLICY BULLETIN NO. 51, *The Day the Music Died (in California): An Analysis of California Assembly Bill AB-1385,* may be downloaded free from the Phoenix Center's web page at: https://www.phoenix-center.org/PolicyBulletin/PCPB51Final.pdf.

The Phoenix Center is a non-profit 501(c)(3) organization that studies broad public-policy issues related to governance, social and economic conditions, with a particular emphasis on the law and economics of the digital age.