

SENATE, No. 2405

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED DECEMBER 8, 2008

Sponsored by:
Senator RONALD L. RICE
District 28 (Essex)

SYNOPSIS

Provides for registration and regulation of athlete agents.

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT providing for the regulation of athlete agents, amending
2 P.L.1971, c.60, P.L.1974, c.46 and P.L.1978, c.73, and
3 supplementing Title 45 of the Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. (New section) This act shall be known and may be cited as
9 the "Athlete Agents Regulation Act."

10
11 2. (New section) The Legislature finds and declares that
12 evidence exists of abuses by agents representing athletes and that
13 the public interest requires action to protect athletes and the
14 integrity of athletics.

15
16 3. (New section) As used in this act:

17 "Agent contract" means any contract or agreement pursuant to
18 which an athlete authorizes or empowers an athlete agent to
19 negotiate or solicit on behalf of the athlete with one or more
20 professional sports teams for the employment of the athlete by one
21 or more professional sports teams or to negotiate or solicit on behalf
22 of the athlete for the employment of the athlete as a professional
23 athlete.

24 "Athlete" means an individual who is a resident of this State and
25 who participates or is eligible to participate in an amateur or
26 professional sport or athletic event.

27 "Athlete agent" means any person who, as an independent
28 contractor, directly or indirectly, recruits or solicits any athlete to
29 enter into any agent contract or professional sports services contract
30 or for a fee procures, offers, promises, or attempts to obtain
31 employment for any athlete with a professional sports team or as a
32 professional athlete. Athlete agent does not include any employee
33 or other representative of a professional sports team.

34 "Board" means the New Jersey Athlete Agent Regulatory Board
35 established by section 4 of this act.

36 "Director" means the Director of the Division of Consumer
37 Affairs in the Department of Law and Public Safety.

38 "Player association or organization" means an association or
39 organization which represents professional athletes in collective
40 bargaining with the management or ownership of professional
41 sports teams or organizations.

42 "Professional sports services contract" means any contract or
43 agreement pursuant to which an athlete is employed or agrees to
44 render services as a player on a professional sports team or as a

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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1 professional athlete.

2 "Resident" means a person who is a legal resident of this State
3 and shall also include a student enrolled in a college or university or
4 in grades 9-12 in a public or private secondary school in this State.

5

6 4. (New section) There is created, within the Division of
7 Consumer Affairs in the Department of Law and Public Safety, a
8 board for the regulation of athlete agents in the State of New Jersey
9 to be known as the New Jersey Athlete Agent Regulatory Board.
10 The board shall consist of seven members to be appointed by the
11 Governor with the advice and consent of the Senate: two of whom
12 shall have experience in college athletics; two of whom shall have
13 experience in high school athletics; and three of whom shall have
14 experience counseling professional athletes with regard to legal or
15 financial matters.

16 Each member of the board shall be a resident of New Jersey.
17 The Governor shall appoint each member for a term of three years,
18 except that of the members first appointed, two shall serve for a
19 term of two years, three shall serve for a term of three years and
20 two shall serve for a term of four years. Any vacancy in the
21 membership of the board shall be filled for the unexpired term in
22 the manner provided by the original appointment. No member of
23 the board may serve more than two successive terms in addition to
24 any unexpired term to which the member has been appointed.

25

26 5. (New section) Members of the board shall be compensated
27 and reimbursed for expenses and provided with office and meeting
28 facilities pursuant to section 2 of P.L.1977, c.285 (C.45:1-2.5).

29

30 6. (New section) The board shall annually elect from among
31 its members a chairperson and a vice-chairperson. The board shall
32 meet twice a year and may hold additional meetings as necessary to
33 discharge its duties.

34

35 7. (New section) The board shall:

36 a. Review the qualifications of applicants for registration;

37 b. Issue and renew biennial registrations for athlete agents
38 pursuant to this act;

39 c. Maintain a record of every athlete agent registered in this
40 State, their places of business, places of residence and the date and
41 number of their registration; and

42 d. Adopt and promulgate rules and regulations pursuant to the
43 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
44 seq.) necessary to effectuate the purposes of this act, except that the
45 initial rules and regulations shall be promulgated by the director.

46

47 8. (New section) There shall be an Executive Director of the
48 board appointed by the director who shall serve at the director's

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1 pleasure. The salary of the Executive Director shall be determined
2 by the director within the limits of available funds.

3
4 9. (New section) No person shall engage in or carry on the
5 occupation of an athlete agent either within the State or with a
6 resident of the State without first registering with the board.
7 Notwithstanding any other provisions of this act, an attorney
8 admitted to practice law in New Jersey who acts as an athlete agent
9 as defined in section 3 of this act shall be required to register with
10 the board as an athlete agent.

11
12 10. (New section) A written application for registration shall be
13 made to the board on the form prescribed by the board and shall
14 state the following:

15 a. The name of the applicant and address of the applicant's
16 residence;

17 b. The address where the business of the athlete agent is to be
18 conducted;

19 c. The business or occupation engaged in by the applicant for
20 at least two years immediately preceding the date of application;
21 and

22 d. Such biographical information on the applicant as may be
23 deemed necessary by the board.

24 The application for registration shall be accompanied by
25 affidavits or certificates of completion of any and all formal
26 training or practical experience in any one of the following specific
27 areas: contracts, contract negotiation, complaint resolution,
28 arbitration, or civil resolution of contract disputes. The board, in
29 evaluating the applicant's qualifications, may consider any other
30 relevant training, education, or experience to satisfy this
31 requirement.

32 An attorney admitted to practice law in New Jersey shall submit
33 a certificate of good standing issued by the Supreme Court of New
34 Jersey with the application for registration in lieu of any other
35 affidavits or certificates required in this section.

36
37 11. (New section) Upon receipt of an application for
38 registration, the board may evaluate and investigate the education,
39 training, experience, and character of the applicant and may
40 examine the premises designated in the application to verify it to be
41 the principal place of business in which the applicant proposes to
42 conduct business as an athlete agent.

43 Submission of a certificate of good standing to practice law
44 pursuant to section 10 of this act shall be deemed to satisfy the
45 provisions of this section.

46
47 12. (New section) In addition to the provisions of section 8 of
48 P.L.1978, c.73 (C.45:1-21), the board may refuse to grant or may

1 suspend or revoke the registration of an athlete agent upon proof
2 showing by a preponderance of the evidence that the agent or the
3 agent's representative or employee:

4 a. Had made false or misleading statements of a material nature
5 in the application for registration;

6 b. Has ever misappropriated funds or engaged in other specific
7 acts such as embezzlement, theft, or fraud which would render the
8 applicant unfit to serve in a fiduciary capacity;

9 c. Has engaged in such other conduct that has a significant
10 adverse impact on the applicant's credibility, integrity, or
11 competence to serve in a fiduciary capacity;

12 d. Has engaged in conduct which violates or causes an athlete
13 to violate any rule or regulation promulgated by the National
14 Collegiate Athletic Association or the New Jersey State
15 Interscholastic Athletic Association governing student-athletes and
16 their relationship with athlete agents;

17 e. Has been convicted of an indictable offense involving illegal
18 gambling;

19 f. Has been convicted of an offense relating to the profession
20 of an athlete agent in another state; or

21 g. Is unwilling to swear or affirm that the applicant will comply
22 with such rules and standards of conduct for athlete agents as may
23 from time to time be promulgated by the board.

24 If an athlete agent is also an attorney admitted to practice law in
25 this State, the board shall advise the Supreme Court of New Jersey
26 in writing of any refusal to grant, or any suspension or revocation of
27 the registration of the athlete agent pursuant to the provisions of this
28 section or the provisions of section 8 of P.L.1978, c.73 (C.45:1-21).
29 In addition, the board may request the Supreme Court of New
30 Jersey to advise the board when the Supreme Court imposes
31 discipline for a violation of the Rules of Professional Conduct upon
32 an attorney who is also registered as an athlete agent.

33

34 13. (New section) A registration shall be valid for a period of
35 up to two years. Renewal of a registration shall require the filing of
36 an application for renewal, and a renewal bond, if applicable. A
37 renewal fee shall be paid by the athlete agent at the time of filing
38 such application.

39

40 14. (New section) The board may, at its discretion, issue a
41 temporary registration valid for a period not exceeding 90 days,
42 subject, where appropriate, to automatic and summary revocation
43 by the board. Otherwise, the conditions for issuance or renewal
44 shall meet the requirements of section 10 of this act.

45

46 15. (New section) All applications for registration or renewal
47 shall state the names and addresses of all persons, except bona fide
48 employees on stated salaries, who are financially interested either

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1 as partners, associates, or profit sharers in the operation of the
2 business of the athlete agent.

3
4 16. (New section) A filing fee to be determined by the board
5 shall be paid at the time the application for issuance of an athlete
6 agent registration is filed. In addition to the fee required for
7 application for issuance of the registration, an athlete agent shall
8 pay to the board biennially a renewal fee which shall accompany
9 the application for renewal. The board shall set the fees required by
10 this section in the amount necessary to generate sufficient revenue
11 to cover the costs of administration and enforcement of this act.

12
13 17. (New section) a. An athlete agent shall deposit or have
14 deposited with the board, prior to the issuance of a registration or
15 renewal of a registration, a surety bond in the sum of \$100,000.

16 b. For the purposes of this section, a certificate from an
17 insurance carrier stating that malpractice coverage in the minimum
18 amount of \$500,000 is in place shall be considered equivalent to a
19 surety bond. Evidence that such coverage is in full force and effect
20 must be presented to the board upon such terms and conditions as
21 the board may prescribe.

22 c. For the purposes of this section, a certificate of deposit
23 payable to the board or a savings account assigned to the board in
24 the amount of \$100,000 shall be considered equivalent to a surety
25 bond and shall be acceptable to the board upon such terms and
26 conditions as the board may prescribe.

27
28 18. (New section) a. Surety bonds shall be payable to the State
29 of New Jersey and shall be conditioned that the person applying for
30 the registration will comply with this act and will pay all sums due
31 any athlete or group of athletes when the applicant or the applicant's
32 representative or employee has received such sums and will pay all
33 damages occasioned to any athlete by reason of intentional or
34 unintentional misstatement, misrepresentation, fraud, deceit, or any
35 unlawful or negligent acts or omissions of the registered athlete
36 agent or the agent's representatives or employees while acting
37 within the scope of their employment.

38 b. Nothing in this section shall be construed to limit the
39 recovery of damages to the amount of the surety bond, malpractice
40 coverage, certificate of deposit, or savings account.

41
42 19. (New section) If any registrant fails to maintain such
43 coverage so as to comply with the provisions of section 17 of this
44 act, the registration issued to the athlete agent shall be suspended
45 until such time as new coverage is obtained. An athlete agent
46 whose registration is suspended pursuant to this section shall not
47 carry on business as an athlete agent during the period of
48 suspension.

- 1 20. (New section) Each registration shall contain the following:
2 a. The name of the registrant;
3 b. A designation of the address of the place in which the
4 registrant is authorized to carry on business as an athlete agent; and
5 c. The registration number and date of issuance of the
6 registration.

7 No registration shall apply to anyone other than the athlete agent
8 to whom it is issued nor to any places other than those designated in
9 the registration.

10

11 21. (New section) The board may issue to an eligible person a
12 certificate of convenience to conduct business as an athlete agent
13 where the person registered to conduct the athlete agency business
14 has died or has been declared incompetent by the judgment of a
15 court of competent jurisdiction or has had a conservator appointed
16 for his or her estate by a court of competent jurisdiction. The
17 certificate of convenience may be denominated an estate certificate
18 of convenience.

19

20 22. (New section) To be eligible for a certificate of
21 convenience, a person shall be any one of the following:

22 a. The executor or administrator of the estate of a deceased
23 person registered to conduct the business of an athlete agent;

24 b. If no executor or administrator has been appointed, the
25 surviving spouse or heir otherwise entitled to conduct the business
26 of the deceased registrant; or

27 c. The guardian of the estate of an incompetent person
28 registered as an athlete agent or the conservator appointed for the
29 conservation of the estate of an incompetent person registered to
30 conduct the business of an athlete agent.

31 The estate certificate of convenience shall continue in force for a
32 period not to exceed 90 days and shall be renewable for such period
33 as the board may deem appropriate, pending the disposal of the
34 athlete agent registration or the procurement of a new registration
35 under the provisions of this act.

36

37 23. (New section) All agent contracts to be utilized by athlete
38 agents shall be on a form approved by the board. This approval
39 shall not be withheld unless the proposed form of agency contract is
40 unfair, unjust, or oppressive to the athlete. Each form of agency
41 contract, except under the conditions specified in section 38 of this
42 act, shall contain an agreement by the athlete agent to refer any
43 controversy between the athlete and the athlete agent relating to the
44 terms of the agent contract to the board for review. There shall be
45 printed on the face of the agent contract in prominent type the
46 following: "This athlete agent is registered with the New Jersey
47 Athlete Agent Regulatory Board. Registration does not imply
48 approval by the board of the terms and conditions of this contract or

1 the competence of this athlete agent."
2

3 24. (New section) The agent contract shall contain in close
4 proximity to the space for the signature of the athlete a notice in at
5 least ten-point type stating:

6 a. that the athlete forfeits his eligibility to participate in
7 intercollegiate athletics upon entering into the agent contract;

8 b. that the athlete is required to advise the athletic director of
9 the educational institution which he attends that he has been
10 approached by an athlete agent to enter into an agent contract; and

11 c. that the athlete has the right to have the agent contract
12 reviewed by an attorney but the athlete is not required to employ the
13 services of an attorney in order to enter into the agent contract.
14

15 25. (New section) a. Fees charged by athlete agents to athletes
16 for services rendered by athlete agents acting in the capacity of
17 athlete agents may be negotiated between the parties.

18 b. Nothing in this section shall be construed to abridge the
19 authority of the Supreme Court to establish fees with respect to any
20 activities deemed to be the practice of law.
21

22 26. (New section) A trust fund shall be established when an
23 athlete agent is the recipient of the athlete's salary or other revenue
24 derived from the athlete. An athlete agent who receives any
25 payment on behalf of the athlete shall immediately deposit such
26 payment in a trust fund account or other recognized depository
27 maintained by the athlete agent. The address and location of the
28 trust fund or other recognized depository shall be provided to the
29 athlete and the board. An attorney, acting as an athlete agent, may
30 deposit any payment received on behalf of the athlete in his clients'
31 trust account maintained in a financial institution in New Jersey.
32

33 27. (New section) Every athlete agent shall keep records
34 approved by the board, in which shall be entered all of the
35 following:

36 a. The name and address of each athlete employing the athlete
37 agent;

38 b. The amount of fees received from each such athlete;

39 c. The contract entered into between the athlete agent and each
40 such athlete; and

41 d. Other information which the board may from time to time
42 require.

43 No athlete agent or his or her representatives or employees shall
44 make any false entry in any such records. All records required by
45 this act shall be kept for a period of seven years. All books,
46 records, and other papers kept pursuant to this act by any athlete
47 agent shall be open to the inspection of the board and its
48 representatives. Every athlete agent shall furnish to the board upon

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1 request a true copy of the books, records, and papers kept pursuant
2 to this act, or any portion thereof, and shall make such reports as the
3 board prescribes.

4
5 28. (New section) An athlete agent may sell, transfer, or give
6 away any interest in or the right to participate in the profits of the
7 athlete agent upon providing written notice, within 20 days prior to
8 the effective date of the sale, transfer or gift, to the board and to the
9 athletes represented by the athlete agent, that the person to whom
10 the interest or right to participate is transferred has an interest in or
11 is involved in the sports in which the athletes whose interests have
12 been transferred participate.

13
14 29. (New section) No athlete agent shall have an ownership or
15 financial interest in any entity which is directly involved in the
16 same sport as an athlete with whom the athlete agent has entered
17 into an agent contract or for whom the athlete agent is attempting to
18 negotiate a professional sports services contract.

19
20 30. (New section) a. If an athlete agent also advises an athlete
21 regarding the investment of funds, the athlete agent shall disclose to
22 the athlete and to the board any ownership interest the athlete agent
23 has in any entity used by the athlete agent in giving such advice and
24 any commissions or fees which are being paid to the athlete agent
25 as a result of investments which are made by the athlete.

26 b. No athlete agent shall act on behalf of an athlete as a
27 "broker-dealer" or "investment adviser," as defined in section 2 of
28 P.L.1967, c.93 (C.49:3-49), unless the athlete agent complies with
29 the requirements of P.L.1967, c.93 (C.49:3-47 et seq.).

30
31 31. (New section) No athlete agent shall knowingly enter into a
32 contract with an athlete containing any term or condition which, if
33 complied with, would be in violation of law.

34
35 32. (New section) No athlete agent shall publish or cause to be
36 published any false, fraudulent, or misleading information,
37 representation, notice, or advertisement. All advertisements of an
38 athlete agent by means of cards, circulars, or signs and in
39 newspapers and other publications and all letterheads, receipts, and
40 other papers shall be printed and contain the registered name and
41 address of the athlete agent and a notation signifying that the athlete
42 agent is a registered athlete agent and, if applicable, may also
43 indicate that the athlete agent is an attorney admitted to practice law
44 in this State. No athlete agent shall give any false information or
45 make any false promises or representations concerning any
46 employment to any athlete.

47
48 33. (New section) a. No athlete agent shall divide fees with a

1 professional sports league or franchise, its representatives, or
2 employees.

3 b. No athlete agent shall enter into any agreement whereby the
4 athlete agent offers anything of value, including, but not limited to,
5 the rendition of free or reduced fees for legal services, to any
6 employee of a university or educational institution in return for the
7 referral of any clients by that employee.

8 c. No employee of a union or players association connected
9 with a professional sports league shall own or participate in any of
10 the revenues of an athlete agent.

11

12 34. (New section) If an athlete agent collects a fee or expenses
13 from an athlete for purposes of obtaining employment for the
14 athlete and the athlete fails to procure such employment, the athlete
15 agent shall be limited as to the fee he collects from the athlete in the
16 following manner:

17 a. The athlete agent shall receive reimbursement for all
18 reasonable out-of-pocket expenses incurred by the athlete agent
19 during the course of his representation of the athlete; and

20 b. If the athlete received a bonus for the signing of a
21 professional sports services contract, the athlete agent may be
22 entitled to a fee negotiated between the parties.

23 c. Nothing in this section shall be construed to abridge the
24 authority of the Supreme Court to establish fees with respect to any
25 activities deemed to be the practice of law.

26

27 35. (New section) All actions brought in any court against any
28 athlete agent may be brought in the name of the person damaged by
29 the athlete agent, and the person damaged may name the surety,
30 malpractice carrier, or holder of the savings account or certificate of
31 deposit as an additional party. The action may be transferred and
32 assigned as any other claim for damages. The amount of damages
33 claimed by the person so damaged, and not the penalty named in the
34 bond, malpractice coverage, savings account, or certificate of
35 deposit, determines the jurisdiction of the court in which the action
36 is to be brought.

37

38 36. (New section) When an athlete agent has departed from the
39 State with intent to defraud creditors or to avoid service of
40 summons in an action brought under this act, service shall be made
41 upon the surety, malpractice carrier or holder of the savings account
42 or certificate of deposit of the athlete agent in accordance with the
43 Rules of Court adopted by the Supreme Court of New Jersey.

44

45 37. (New section) a. In cases of controversy arising under this
46 act, the parties involved shall refer the matters in dispute to the
47 board, which shall hear and determine the same subject to an
48 appeal.

1 b. The board may certify without a hearing that there is no
2 controversy within the meaning of this section if the board has by
3 investigation established that there is no dispute. Service of the
4 certification shall be made upon all parties concerned by registered
5 or certified mail with return receipt requested and the certification
6 shall be conclusive ten days after the date of mailing if no objection
7 has been filed with the board during that period.

8
9 38. (New section) Notwithstanding section 23 of this act, a
10 provision in an agent contract providing for the decision by
11 arbitration of any controversy under the contract or as to its
12 existence, validity, construction, performance, nonperformance,
13 breach, operation, continuance, or termination, shall be valid if all
14 of the following occur:

15 a. The provision is contained in a contract between an athlete
16 agent and an athlete for whom the athlete agent under the contract
17 undertakes to endeavor to secure employment;

18 b. The provision is inserted in the contract pursuant to any rule,
19 regulation, or contract of a bona fide labor union regulating the
20 relations of its members to an athlete agent;

21 c. The contract provides for reasonable notice to the board of
22 the time and place of all arbitration hearings; and

23 d. The contract provides that the board or its authorized
24 representative has the right to attend all arbitration hearings.

25 If there is such an arbitration provision in a contract, the contract
26 need not provide that the athlete agent agrees to refer any
27 controversy between the athlete and the athlete agent regarding the
28 terms of the contract to the board for review, and section 37 of this
29 act shall not apply to controversies pertaining to the contract.

30
31 39. (New section) Any agent contract which is negotiated by an
32 athlete agent who has failed to comply with section 9 of this act is
33 void and unenforceable.

34
35 40. Section 1 of P.L.1971, c.60 (C.45:1-2.1) is amended to read
36 as follows:

37 1. The provisions of this act shall apply to the following boards
38 and commissions: the New Jersey State Board of Accountancy, the
39 New Jersey State Board of Architects, the New Jersey State Board
40 of Cosmetology and Hairstyling, the Board of Examiners of
41 Electrical Contractors, the New Jersey State Board of Dentistry, the
42 State Board of Mortuary Science of New Jersey, the State Board of
43 Professional Engineers and Land Surveyors, the State Board of
44 Marriage and Family Therapy Examiners, the State Board of
45 Medical Examiners, the New Jersey Board of Nursing, the New
46 Jersey State Board of Optometrists, the State Board of Examiners of
47 Ophthalmic Dispensers and Ophthalmic Technicians, the Board of
48 Pharmacy, the State Board of Professional Planners, the State Board

1 of Psychological Examiners, the State Board of Examiners of
2 Master Plumbers, the New Jersey Real Estate Commission, the
3 State Board of Court Reporting, the State Board of Veterinary
4 Medical Examiners, the Radiologic Technology Board of
5 Examiners, the Acupuncture Examining Board, the State Board of
6 Chiropractic Examiners, the State Board of Respiratory Care, the
7 State Real Estate Appraiser Board, the State Board of Social Work
8 Examiners, the State Board of Examiners of Heating, Ventilating,
9 Air Conditioning and Refrigeration Contractors, and the State
10 Board of Physical Therapy Examiners, the Orthotics and Prosthetics
11 Board of Examiners, the New Jersey Cemetery Board, the State
12 Board of Polysomnography, the New Jersey Board of Massage and
13 Bodywork Therapy, the New Jersey Athlete Agent Regulatory
14 Board and any other entity hereafter created under Title 45 to
15 license or otherwise regulate a profession or occupation.
16 (cf. P.L.2007, c.337, s.10)

17
18 41. Section 1 of P.L.1974, c.46 (C.45:1-3.1) is amended to read
19 as follows:

20 1. The provisions of this act shall apply to the following boards
21 and commissions: the New Jersey State Board of Accountancy, the
22 New Jersey State Board of Architects, the New Jersey State Board
23 of Cosmetology and Hairstyling, the Board of Examiners of
24 Electrical Contractors, the New Jersey State Board of Dentistry, the
25 State Board of Mortuary Science of New Jersey, the State Board of
26 Professional Engineers and Land Surveyors, the State Board of
27 Marriage and Family Therapy Examiners, the State Board of
28 Medical Examiners, the New Jersey Board of Nursing, the New
29 Jersey State Board of Optometrists, the State Board of Examiners of
30 Ophthalmic Dispensers and Ophthalmic Technicians, the Board of
31 Pharmacy, the State Board of Professional Planners, the State Board
32 of Psychological Examiners, the State Board of Examiners of
33 Master Plumbers, the State Board of Court Reporting, the State
34 Board of Veterinary Medical Examiners, the Radiologic
35 Technology Board of Examiners, the Acupuncture Examining
36 Board, the State Board of Chiropractic Examiners, the State Board
37 of Respiratory Care, the State Real Estate Appraiser Board, the New
38 Jersey Cemetery Board, the State Board of Social Work Examiners,
39 the State Board of Examiners of Heating, Ventilating, Air
40 Conditioning and Refrigeration Contractors, the State Board of
41 Physical Therapy Examiners, the State Board of Polysomnography,
42 the Orthotics and Prosthetics Board of Examiners, the New Jersey
43 Board of Massage and Bodywork Therapy, the New Jersey Athlete
44 Agent Regulatory Board and any other entity hereafter created
45 under Title 45 to license or otherwise regulate a profession or
46 occupation.
47 (cf: P.L.2007, c.337, s.11)

1 42. Section 2 of P.L.1978, c.73 (C.45:1-15) is amended to read
2 as follows:

3 2. The provisions of this act shall apply to the following boards
4 and all professions or occupations regulated by, through or with the
5 advice of those boards: the New Jersey State Board of
6 Accountancy, the New Jersey State Board of Architects, the New
7 Jersey State Board of Cosmetology and Hairstyling, the Board of
8 Examiners of Electrical Contractors, the New Jersey State Board of
9 Dentistry, the State Board of Mortuary Science of New Jersey, the
10 State Board of Professional Engineers and Land Surveyors, the
11 State Board of Marriage and Family Therapy Examiners, the State
12 Board of Medical Examiners, the New Jersey Board of Nursing, the
13 New Jersey State Board of Optometrists, the State Board of
14 Examiners of Ophthalmic Dispensers and Ophthalmic Technicians,
15 the Board of Pharmacy, the State Board of Professional Planners,
16 the State Board of Psychological Examiners, the State Board of
17 Examiners of Master Plumbers, the State Board of Court Reporting,
18 the State Board of Veterinary Medical Examiners, the State Board
19 of Chiropractic Examiners, the State Board of Respiratory Care, the
20 State Real Estate Appraiser Board, the State Board of Social Work
21 Examiners, the State Board of Examiners of Heating, Ventilating,
22 Air Conditioning and Refrigeration Contractors, the State Board of
23 Physical Therapy Examiners, the State Board of Polysomnography,
24 the Professional Counselor Examiners Committee, the New Jersey
25 Cemetery Board, the Orthotics and Prosthetics Board of Examiners,
26 the Occupational Therapy Advisory Council, the Electrologists
27 Advisory Committee, the Acupuncture Advisory Committee, the
28 Alcohol and Drug Counselor Committee, the Athletic Training
29 Advisory Committee, the Certified Psychoanalysts Advisory
30 Committee, the Fire Alarm, Burglar Alarm, and Locksmith
31 Advisory Committee, the Home Inspection Advisory Committee,
32 the Interior Design Examination and Evaluation Committee, the
33 Hearing Aid Dispensers Examining Committee, the Landscape
34 Architect Examination and Evaluation Committee, the Perfusionists
35 Advisory Committee, the Physician Assistant Advisory Committee,
36 **[and]** the Audiology and Speech-Language Pathology Advisory
37 Committee, the New Jersey Board of Massage and Bodywork
38 Therapy , the New Jersey Athlete Agent Regulatory Board and any
39 other entity hereafter created under Title 45 to license or otherwise
40 regulate a profession or occupation
41 (cf: P.L.2007, c.337, s.12)

42
43 43. Sections 1 through 8 of this act shall take effect
44 immediately, with the remaining sections taking effect 180 days
45 following enactment.

STATEMENT

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This bill establishes the New Jersey Athlete Agent Regulatory Board within the Division of Consumer Affairs in the Department of Law and Public Safety for the registration and regulation of athlete agents.

The bill defines "athlete agent" as any person who, as an independent contractor (not any employee or other representative of a professional sports team), directly or indirectly recruits or solicits any athlete to enter into any agent or professional sports services contract, or for a fee procures, offers, promises, or attempts to obtain employment for any athlete with a professional sports team or as a professional athlete. An "athlete" is any individual who is a resident of this State and who participates or is eligible to participate in an amateur or professional sport or athletic event. The bill requires individuals, including attorneys, to register with the board before practicing as an athlete agent.

The board of seven members (two must have experience in college athletics, two must have experience in high school athletics and three must have experience giving legal or financial counseling to professional athletes) will be appointed by the Governor with the advice and consent of the Senate. The bill empowers the board to: review, issue, renew, deny, suspend and revoke registrations. The board may also deny, suspend or revoke the registration of an athlete agent if the agent has violated any provision of section 8 of P.L.1978, c.73 (C.45:1-21), has engaged in conduct involving certain civil or criminal offenses, or has violated any rule of the National Collegiate Athletic Association (NCAA) or the New Jersey State Interscholastic Athletic Association governing student-athletes and their relationship with athlete agents.

The bill requires athlete agents to deposit a surety bond of \$100,000 with the board. A certificate from an insurance carrier stating that malpractice coverage in the minimum amount of \$500,000 is in place, a certificate of deposit in the amount of \$100,000 payable to the board or a savings account in the amount of \$100,000 assigned to the board shall be considered equivalent to the surety bond.

The bill requires the form of agent contracts to be approved by the board and requires that each contract contain a notice stating that the athlete forfeits eligibility to participate in intercollegiate athletics by entering into an agent contract. The bill provides for the negotiation and limitation of fees and the establishment of trust funds for certain athletes. The bill prohibits an agent's sale or transfer of any interest in the profits of the athlete agent without providing written notice to the board and the athlete.

The bill prohibits an athlete agent from having an interest in any entity which is directly involved in the same sport as an athlete with whom the agent has a contract, and an athlete agent must disclose to

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1 clients and the board any interest the agent has when giving
2 investment advice. The bill prohibits an athlete agent from dividing
3 fees with a professional sports league or franchise or paying an
4 employee of a university or educational institution for the referral
5 of clients. The bill prohibits an employee of a union or players
6 association connected with a professional sports league from
7 owning or participating in any of the revenues of an athlete agent.

8 The bill makes agents subject to the provisions of the uniform
9 enforcement act for professional boards, P.L.1978, c.73 (C.45:1-14
10 et seq.), and requires agents to comply with all requirements of the
11 State "Uniform Securities Law (1997)" if they act as investment
12 advisors or broker-dealers.