

# ASSEMBLY, No. 4459

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED JANUARY 10, 2017

**Sponsored by:**

**Assemblyman ANTHONY M. BUCCO**  
**District 25 (Morris and Somerset)**

**SYNOPSIS**

Requires Attorney General provide active supervision of certain occupational and professional licensing boards.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning the State supervision of certain occupational  
2 and professional licensing boards and supplementing P.L.1978,  
3 c.73 (C.45:1-14 et seq.).  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
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8 1. a. Notwithstanding the provisions of any State law, rule, or  
9 regulation to the contrary, the Attorney General or the Attorney  
10 General's designee shall, in order to provide antitrust immunity to a  
11 board consistent with federal law, provide active supervision of any  
12 board for which:

13 (1) the majority of members are active market participants of the  
14 profession or occupation regulated by that board; and

15 (2) but for a vacancy or vacancies in the membership of the  
16 board, that board would otherwise have a majority of members that  
17 are active market participants.

18 The Attorney General or the Attorney General's designee shall  
19 review, and is authorized to amend, repeal, or set aside, any  
20 regulation, action, or decision made by a board that is subject to  
21 active supervision pursuant to paragraph (1) or (2) of this  
22 subsection, that the Attorney General or the Attorney General's  
23 designee has determined to have the potential to displace  
24 competition and that is inconsistent with and does not further or  
25 promote clearly articulated affirmatively expressed State policy or  
26 the inherent, logical, or ordinary result of that policy.

27 b. As used in this section:

28 "Active market participant" means a member of a board who:

29 (1) is licensed or certified by the board; or

30 (2) owns or shares ownership in a business or professional  
31 practice that provides any service that is subject to the regulatory  
32 authority of the board.

33 "Board" means a board, committee, commission, or any other  
34 entity created by law to license or otherwise regulate a profession or  
35 occupation in this State.  
36

37 2. This act shall take effect immediately.  
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40 STATEMENT  
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42 This bill directs the Attorney General or the Attorney General's  
43 designee to provide active supervision of any professional or  
44 occupational licensing board if the membership of the board is  
45 comprised of a majority of active market participants, or if the  
46 board's membership would be comprised of a majority of active  
47 market participants but for a vacancy or vacancies in membership.  
48 The bill requires the Attorney General to review any regulation,

1 action, or decision made by a board, and authorizes the Attorney  
2 General to amend, repeal, or set aside any regulation, action, or  
3 decision made by that board that is determined to have the potential  
4 to displace competition and that is inconsistent with and does not  
5 further or promote clearly articulated affirmatively expressed State  
6 policy or the inherent, logical, or ordinary result of that policy.

7 The bill defines “active market participant” as a board member  
8 who is licensed or certified by that board, or who owns or shares  
9 ownership in a business or professional practice that provides any  
10 service that is subject to the regulatory authority of that board. The  
11 bill defines “board” as a board, committee, commission, or any  
12 other entity created by law to license or otherwise regulate a  
13 profession or occupation in this State.

14 The bill is intended to provide antitrust immunity to professional  
15 and occupational licensing boards consistent with federal law,  
16 specifically the decision of the United States Supreme Court in  
17 North Carolina State Board of Dental Examiners v. Federal Trade  
18 Commission. In that decision the Court held that if a controlling  
19 number of a board’s members are active market participants in the  
20 profession or occupation the board regulates, then the board may  
21 invoke state-action antitrust immunity only if it is subject to active  
22 supervision by the state. The provisions of this bill direct the  
23 Attorney General to provide active supervision of any professional  
24 or occupational licensing board that is subject to the provisions of  
25 the bill.