

[Second Reprint]
SENATE, No. 936

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED FEBRUARY 1, 2010

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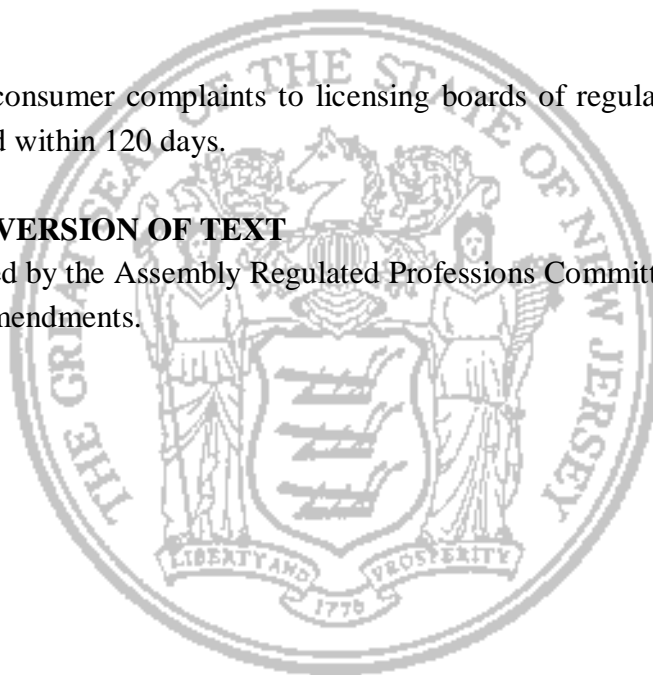
Assemblyman DeAngelo

SYNOPSIS

Requires consumer complaints to licensing boards of regulated professions to be resolved within 120 days.

CURRENT VERSION OF TEXT

As reported by the Assembly Regulated Professions Committee on March 4, 2010, with amendments.



(Sponsorship Updated As Of: 3/16/2010)

1 AN ACT concerning consumer complaints of certain licensed
2 professionals and amending P.L.1978, c.73.

3

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

6

7 1. Section 5 of P.L.1978, c.73 (C.45:1-18) is amended to read
8 as follows:

9 5. Whenever it shall appear to any board, the director or the
10 Attorney General that a person has engaged in, or is engaging in
11 any act or practice declared unlawful by a statute or regulation
12 administered by such board, or when the board, the director or the
13 Attorney General shall deem it to be in the public interest to inquire
14 whether any such violation may exist, the board or the director
15 through the Attorney General, or the Attorney General acting
16 independently, may exercise any of the following investigative
17 powers:

18 a. Require any person to file on such form as may be
19 prescribed, a statement or report in writing under oath, or otherwise,
20 as to the facts and circumstances concerning the rendition of any
21 service or conduct of any sale incidental to the discharge of any act
22 or practice subject to an act or regulation administered by the board;

23 b. Examine under oath any person in connection with any act
24 or practice subject to an act or regulation administered by the board;

25 c. Inspect any premises from which a practice or activity
26 subject to an act or regulation administered by the board is
27 conducted;

28 d. Examine any goods, ware or item used in the rendition of a
29 practice or activity subject to an act or regulation administered by
30 the board;

31 e. Examine any record, book, document, account or paper
32 prepared or maintained by or for any professional or occupational
33 licensee in the regular course of practicing such profession or
34 engaging in such occupation or any individual engaging in practices
35 subject to an act or regulation administered by the board. Nothing
36 in this subsection shall require the notification or consent of the
37 person to whom the record, book, account or paper pertains, unless
38 otherwise required by law;

39 f. For the purpose of preserving evidence of an unlawful act or
40 practice, pursuant to an order of the Superior Court, impound any
41 record, book, document, account, paper, goods, ware, or item used,
42 prepared or maintained by or for any board licensee in the regular
43 course of practicing such profession or engaging in such occupation
44 or any individual engaging in a practice or activity subject to an act

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted February 4, 2010.

²Assembly ARP committee amendments adopted March 4, 2010.

1 or regulation administered by the board. In such cases as may be
2 necessary, the Superior Court may, on application of the Attorney
3 General, issue an order sealing items or material subject to this
4 subsection; and

5 g. Require any board licensee, permit holder or registered or
6 certified person to submit to an assessment of skills to determine
7 whether the board licensee, permit holder or registered or certified
8 person can continue to practice with reasonable skill and safety.

9 h. Whenever a board, the director through the Attorney
10 General, or the Attorney General investigates a consumer
11 complaint, the board, director or the Attorney General, as
12 applicable, shall render a final disposition of the inquiry within 120
13 days of the filing of the complaint¹; except that the 120-day period
14 shall be tolled, based upon the² [written] documented² approval of
15 the Attorney General² or the Attorney General's designee²,
16 whenever additional time is required: to obtain information, records
17 or evidence sought pursuant to this section that is necessary for the
18 investigation or disposition of the consumer complaint; for the
19 board, director or the Attorney General, as the case may be, to
20 consider additional information furnished more than 30 days after
21 the filing of the complaint; to conduct an administrative hearing in a
22 contested case; for expert consultation related to the subject matter
23 under investigation; because a complaint is, or becomes, the subject
24 of a criminal investigation or prosecution; or for other good cause
25 shown due to extraordinary or unforeseen circumstances.²The
26 number of consumer complaints for which tolling of the 120-day
27 period is approved shall be reported to the Attorney General on a
28 monthly basis, and this information shall be provided to the
29 Legislature on a semi-annual basis.² Nothing in this subsection
30 shall be construed as affecting the jurisdiction of a board, the
31 director through the Attorney General or the Attorney General¹.

32 In order to accomplish the objectives of this act or any act or
33 regulation administered by a board, the Attorney General may hold
34 such investigative hearings as may be necessary and the board,
35 director or Attorney General may issue subpoenas to compel the
36 attendance of any person or the production of books, records or
37 papers at any such hearing or inquiry.

38 (cf: P.L.2001, c.307, s.1)

39

40 2. The Director of the Division of Consumer Affairs in the
41 Department of Law and Public Safety shall adopt rules and
42 regulations pursuant to the "Administrative Procedure Act,"
43 P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes of
44 this act.

45

46 3. This act shall take effect on the 180th day after enactment,
47 but the Director of the Division of Consumer Affairs in the

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- 1 Department of Law and Public Safety may take such anticipatory
- 2 administrative action in advance as shall be necessary for the
- 3 implementation of the act.