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

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

1. a. Notwithstanding the provisions of any State law, rule, or
regulation to the contrary, the Attorney General or the Attorney
General’s designee shall, in order to provide antitrust immunity to a
board consistent with federal law, provide active supervision of any
board for which:
   (1) the majority of members are active market participants of the
   profession or occupation regulated by that board; and
   (2) but for a vacancy or vacancies in the membership of the
   board, that board would otherwise have a majority of members that
   are active market participants.

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

   b. As used in this section:
   “Active market participant” means a member of a board who:
   (1) is licensed or certified by the board; or
   (2) owns or shares ownership in a business or professional
   practice that provides any service that is subject to the regulatory
   authority of the board.
   “Board” means a board, committee, commission, or any other
   entity created by law to license or otherwise regulate a profession or
   occupation in this State.

2. This act shall take effect immediately.

STATEMENT

This bill directs the Attorney General or the Attorney General’s
designee to provide active supervision of any professional or
occupational licensing board if the membership of the board is
comprised of a majority of active market participants, or if the
board’s membership would be comprised of a majority of active
market participants but for a vacancy or vacancies in membership.
The bill requires the Attorney General to review any regulation,
action, or decision made by a board, and authorizes the Attorney
General to amend, repeal, or set aside any regulation, action, or
decision made by that board that is determined to have the potential
to displace competition and that is inconsistent with and does not
further or promote clearly articulated affirmatively expressed State
policy or the inherent, logical, or ordinary result of that policy.

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

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