

SENATE, No. 1438

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 19, 1996

By Senator LYNCH

1 AN ACT concerning employment agencies, amending and  
2 supplementing P.L.1989, c.331 and repealing section 14 of  
3 P.L.1981, c.1 and section 2 of P.L.1989, c.331.

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

7  
8 1. Section 1 of P.L.1989, c.331 (C.34:8-43) is amended to read as  
9 follows:

10 1. As used in this act:

11 "Accepting employment" means that a job seeker has entered into  
12 an agreement with an employer which includes:

13 (1) The terms and conditions of employment;

14 (2) The salary or wages and any benefits to be paid to the job  
15 seeker as compensation for employment; and

16 (3) The date, time and place employment will commence.

17 "A career consulting or outplacement organization" means any  
18 person, required to be registered under section 24 of this act,  
19 providing or rendering services, with or without related products, in  
20 connection with advice, instruction, analysis, recommendation or  
21 assistance concerning past, present, or future employment or  
22 compensation for an individual's time, labor or effort.

23 "Agent" means any individual who performs any function or activity  
24 for or on behalf of any person, the purpose of which is to provide  
25 services or products to individuals seeking employment, career  
26 guidance or counseling, or employment related services or products.

27 "Applicant" means any person applying for licensing or registration  
28 under this act.

29 ["Attorney General" means the Attorney General of this State or a  
30 designee.]

31 "Baby sitter" means and includes any individual under 16 years of  
32 age, other than a registered nurse or a licensed nurse, entrusted  
33 temporarily with the care of children during the absence of their  
34 parents, guardians, or individuals standing in loco parentis to them.

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

**Matter underlined thus is new matter.**

1 This definition shall not include persons regularly employed by  
2 agencies, or institutions operated by or under the control or  
3 supervision of this State, or any of its political subdivisions, nor any  
4 child care facilities operated for the care of children when the facilities  
5 are similarly controlled or supervised.

6 "Booking agency" means any person who procures, offers,  
7 promises, or attempts to procure employment for performing artists,  
8 or athletes, not under the jurisdiction of the Athletic Control Board,  
9 and who collects a fee for providing those services.

10 "Bureau" means the Bureau of Employment and Personnel Services  
11 in the [Division of Consumer Affairs within the Department of Law  
12 and Public Safety] Department of Labor created pursuant to section  
13 2 of [this act] P.L. c. (C. ) (now pending before the  
14 Legislature as this bill).

15 "Career counseling service" means any business that, through its  
16 agents or otherwise, procures or represents itself as procuring  
17 employment or employment assistance or advertises in any manner the  
18 following services for a fee: career counseling; vocational guidance;  
19 aptitude, achievement or vocational testing; executive consulting;  
20 personnel consulting; career management, evaluation, or planning; the  
21 development of resumes and other promotional materials relating to  
22 the preparation for employment; or referral services relating to  
23 employment or employment qualifications. A career counseling  
24 service shall be licensed as an employment agency pursuant to the  
25 provisions of this act. A career counseling service shall not include  
26 career consulting or outplacement organizations required to be  
27 registered under section 24 of this act.

28 "Chief" means the Chief of the Bureau of Employment and  
29 Personnel Services.

30 "Commissioner" means the Commissioner of Labor, or his designee.

31 "Consulting firm" means any person required to be registered under  
32 section 23 of this act that:

33 (1) Identifies, appraises, refers or recommends individuals to be  
34 considered for employment by the employer; and

35 (2) Is compensated for services solely by payments from the  
36 employer and is not, in any instance, compensated, directly or  
37 indirectly, by an individual who is identified, appraised, referred or  
38 recommended.

39 ["Director" means the Director of the Division of Consumer Affairs  
40 in the Department of Law and Public Safety, or his designee.]

41 "Employer" means a person seeking to obtain individuals to perform  
42 services, tasks, or labor for which a salary, wage, or other  
43 compensation or benefits are to be paid.

44 "Employment agency" means any person who, for a fee, charge or  
45 commission:

46 (1) Procures or obtains, or offers, promises or attempts to procure,

1 obtain, or assist in procuring or obtaining employment for a job seeker  
2 or employees for an employer; or

3 (2) Supplies job seekers to employers seeking employees on a  
4 part-time or temporary assignment basis [who has not filed notification  
5 with the Attorney General pursuant to the provisions of section 1 of  
6 P.L.1981, c.1 (C.56:8-1.1)]; or

7 (3) Procures, obtains, offers, promises or attempts to procure or  
8 obtain employment or engagements for actors, actresses, performing  
9 artists, vocalists, musicians or models; or

10 (4) Acts as a placement firm, career counseling service, or resume  
11 service; or

12 (5) Acts as a nurses' registry.

13 The [director] commissioner shall have the authority to determine,  
14 from time to time, that a particular employment agency or  
15 career-related service or product, not otherwise expressly subject to  
16 the provisions of this act, is subject to whichever requirements of this  
17 act he deems appropriate.

18 "Fee, charge or commission" means any payment of money, or  
19 promise to pay money to a person in consideration for performance of  
20 any service for which licensure or registration is required by this act,  
21 or the excess of money received by a person furnishing employment or  
22 job seekers over what he has paid for transportation, transfer of  
23 baggage or lodging for a job seeker. "Fee, charge or commission" shall  
24 also include the difference between the amount of money received by  
25 any person who either furnishes job seekers or performers for any  
26 entertainment, exhibition or performance, or who furnishes baby sitters  
27 for any occasion, and the amount paid by the person to the job  
28 seekers, performers or baby sitters.

29 "Job listing service" means any person required to be registered  
30 under section 25 of this act who, by advertisement or other means,  
31 offers to provide job seekers with a list of employers, a list of job  
32 openings or a similar publication, or prepares resumes or lists of  
33 applicants for distribution to potential employers, where a fee or other  
34 valuable consideration is exacted or attempted to be collected, either  
35 directly or indirectly.

36 "Job seeker" means any individual seeking employment, career  
37 guidance or counseling or employment related services or products.

38 "Job seeker contingent liability" means a provision in an agreement  
39 between an employment agency and a job seeker whereby the job  
40 seeker may become liable, in whole or in part, to pay a fee, charge or  
41 commission of any amount, directly or indirectly, on account of any  
42 service rendered by the employment agency.

43 "Just cause for voluntary termination of employment by a job  
44 seeker" means and includes, but is not limited to, cases in which  
45 material misrepresentations of the terms or conditions of employment  
46 have been relied upon by a job seeker who would not have accepted

1 the employment if the grounds for termination were known before  
2 acceptance of the employment.

3 "License" means a license issued by the [director] commissioner to  
4 any person to:

5 (1) Carry on the business of an employment agency; and

6 (2) Perform, as an agent of the agency, any of the functions related  
7 to the operation of the agency.

8 "Performing artist" means a model, musical, theatrical or other  
9 entertainment performer employed or engaged individually or in a  
10 group.

11 "Person" means any natural person or legal representative,  
12 partnership, corporation, company, trust, business entity or  
13 association, and any agent, employee, salesperson, partner, officer,  
14 director, member, stockholder, associate, trustee or cestuis que  
15 trustent thereof.

16 "Prepaid computer job matching service" means any person  
17 required to be registered under section 25 of this act who is engaged  
18 in the business of matching job seekers with employment  
19 opportunities, pursuant to an arrangement under which the job seeker  
20 is required to pay a fee in advance of, or contemporaneously with, the  
21 supplying of the matching, but which does not otherwise involve  
22 services for the procurement of employment by the person conducting  
23 the service.

24 "Primary location" means an address used for 90 or more calendar  
25 days by a person for the conduct of an activity regulated under this  
26 act.

27 "Principal owner" means any person who, directly or indirectly,  
28 holds a beneficial interest or ownership in an applicant or who has the  
29 ability to control an applicant.

30 "Temporary employment" means employment in which the duration  
31 is fixed as some definite agreed period of time or by the occurrence of  
32 some specified event, either of which shall be clearly stated to all  
33 parties at the time of referral to the employment.

34 ["Temporary help service firm" means any person who operates a  
35 business which consists of employing individuals directly or indirectly  
36 for the purpose of assigning the employed individuals to assist the  
37 firm's customers in the handling of the customers' temporary, excess  
38 or special work loads, and who, in addition to the payment of wages  
39 or salaries to the employed individuals, pays federal social security  
40 taxes and State and federal unemployment insurance; carries worker's  
41 compensation insurance as required by State law; and sustains  
42 responsibility for the actions of the employed individuals while they  
43 render services to the firm's customers. A temporary help service firm  
44 is required to comply with the provisions of P.L.1960, c.39 (C.56:8-1  
45 et seq.).]

46 (cf: P.L.1989, c.331, s.1)

1       2. (New section) There is established a Bureau of Employment  
2 and Personnel Services in the Department of Labor. The  
3 commissioner shall appoint the chief of the bureau, who shall receive  
4 a salary as provided by law.

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6       3. Section 3 of P.L.1989, c.331 (C.34:8-44) is amended to read as  
7 follows:

8       3. In addition to any other procedure, condition or information  
9 required by this act:

10      a. Every applicant shall file a disclosure statement with the chief  
11 stating whether or not the applicant has been convicted of any crime,  
12 which for the purposes of this act shall mean a violation of any of the  
13 following provisions of the "New Jersey Code of Criminal Justice,"  
14 Title 2C of the New Jersey Statutes as amended and supplemented, or  
15 the equivalent under the laws of any other jurisdiction:

16      (1) Any crime of the first degree;

17      (2) Any crime which is a second or third degree crime and is a  
18 violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes;  
19 or

20      (3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-2,  
21 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2,  
22 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of  
23 2C:17-2, 2C:18-2, 2C:20-1, 2C:20-2, 2C:20-4, 2C:20-5, 2C:20-7,  
24 2C:20-9, 2C:21-2 through 2C:21-4, 2C:21-6, 2C:21-7, 2C:21-12,  
25 2C:21-14, 2C:21-15, or 2C:21-19, chapter 27 or 28 of Title 2C of the  
26 New Jersey Statutes, N.J.S.2C:30-2, 2C:30-3, 2C:35-5, 2C:35-10, or  
27 2C:37-1 through 2C:37-4.

28      b. Each disclosure statement may be reviewed and used by the  
29 [director] commissioner as grounds for denying licensure or  
30 registration, except that in cases in which the provisions of P.L.1968,  
31 c.282 (C.2A:168A-1 et seq.) apply, the [director] commissioner shall  
32 comply with the requirements of that act.

33      c. An applicant who is denied licensure or registration pursuant to  
34 this section shall, upon a written request transmitted to the [director]  
35 commissioner within 30 calendar days of the denial, be afforded an  
36 opportunity for a hearing in the manner provided for contested cases  
37 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
38 (C.52:14B-1 et seq.).

39      d. An applicant shall have the continuing duty to provide any  
40 assistance or information requested by the [director] commissioner,  
41 and to cooperate in any inquiry, investigation, or hearing conducted by  
42 the [director] commissioner.

43      e. If any of the information required to be included in the  
44 disclosure statement changes, or if any additional information should  
45 be added after the filing of the statement, the applicant shall provide

1 that information to the chief, in writing, within 30 calendar days of the  
2 change or addition.

3 (cf: P.L.1989, c.331, s.3)

4

5 4. Section 5 of P.L.1989, c.331 (C.34:8-46) is amended to read as  
6 follows:

7 5. The provisions of this act shall not apply to:

8 a. A teachers' registry conducted by an association of certified  
9 teachers, whose membership is not less than 10 certified teachers,  
10 incorporated as a nonprofit organization under the laws of New Jersey,  
11 and operated under the supervision of a teacher recognized and  
12 approved as a certified teacher by the Department of Education of this  
13 State, or by the duly established authority of the state in which the  
14 employment is procured, which registry procures positions only for  
15 certified teachers who are recognized and approved as certified  
16 teachers by the Department of Education of this State;

17 b. Any State, federal, municipal or charitable agency which does  
18 not charge fees;

19 c. Any department or bureau which is maintained by persons for  
20 the purpose of securing help for themselves and does not charge fees  
21 to job seekers. The exemption from the provisions of this act provided  
22 by this subsection shall not be construed to exempt associations or  
23 organizations of employers from the requirement to procure the  
24 licenses or registration otherwise required under this act;

25 d. The procuring of employment by any labor union for any of its  
26 members in any job coming under the jurisdiction of the union;  
27 provided, that no fee is charged any member for being furnished  
28 employment or information where employment may be procured;

29 e. Any nurses' registry operated by any association of registered  
30 nurses, whose membership is not less than 10 registered nurses, duly  
31 incorporated as a nonprofit organization under the laws of New Jersey,  
32 and operated under the supervision of a registered nurse authorized to  
33 practice in the State of New Jersey; except that no nurses' registry  
34 shall furnish help or employment to anyone other than a registered  
35 nurse, a practical nurse licensed by the State, or a person, other than  
36 a baby sitter, who is approved by the registered nurse in charge of the  
37 nurses' registry and is sent by the agency to an employer to assist  
38 nonprofessionally in the care of the sick or ailing;

39 f. Any association of farmers which:

40 (1) Is duly incorporated on a nonprofit basis, under the laws of  
41 New Jersey;

42 (2) Is certified to the [director] commissioner by the Secretary of  
43 Agriculture of New Jersey as being an association of bona fide farmers  
44 of New Jersey;

45 (3) Does not furnish job seekers to employers other than members  
46 of their association; and

1 (4) Does not charge fees to any job seeker for being furnished  
2 employment or information where employment may be procured.

3 g. Any person who furnishes farmers with field or harvest workers  
4 to be employed on a seasonal basis, and charges no fee either directly  
5 or indirectly to any worker, if the wages of the workers are paid  
6 directly to the workers by the farmers who employ them.

7 The exemptions established in this subsection and subsection f. of  
8 this section shall not apply to any person who induces or attempts to  
9 induce a person working under contract with an employer to leave the  
10 employment in which he is working under that contract before the  
11 contract is completed or the worker is no longer responsible for its  
12 completion;

13 h. [Any temporary help service firm which does not:

14 (1) Charge a fee or liquidated charge to any individual employed  
15 by the firm or in connection with employment by the firm;

16 (2) Prevent or inhibit, by contract, any of the individuals it employs  
17 from becoming employed by any other person;

18 (3) Knowingly send individuals it employs to, or knowingly  
19 continue to render services to, any plant or office where a strike or  
20 lockout is in progress for the purpose of replacing individuals who are  
21 striking or who are locked out. Any person conducting a temporary  
22 help service firm which knowingly sends its employed individuals to,  
23 or knowingly continues to render services to, a plant or office where  
24 a strike or lockout is in progress for the purpose of replacing those  
25 individuals who are striking or who are locked out or, directly or  
26 indirectly counsels, aids or abets that action shall be liable to a penalty  
27 of \$1,000 upon each occurrence. The penalty shall be sued for, and  
28 received by and in the name of the Attorney General and shall be  
29 collected and enforced by summary proceedings pursuant to "the  
30 penalty enforcement law" (N.J.S.2A:58-1 et seq.).

31 This exclusion shall apply to temporary help service firms operated  
32 by any person who also operates an employment agency as long as the  
33 businesses are independently operated as prescribed by rules and  
34 regulations promulgated by the Attorney General;] (Deleted by  
35 amendment, P.L. , c. .)

36 i. Any news periodical which contains listings of or classified  
37 advertisements for jobs, positions, employers, or job seekers where the  
38 periodical also contains news stories of general interest, articles or  
39 essays of opinion, features and other advertising and which is offered  
40 to the general public for sale at a nominal fee;

41 j. Any nonprofit educational, religious or charitable institution  
42 which provides career counseling, job placement or other  
43 employment-related services, skills evaluation, skills analysis, or  
44 testing for vocational ability in order to develop a vocational profile  
45 to counsel individuals and recommend placement opportunities as part  
46 of the fulfillment of its educational, religious or charitable purpose;

1 k. Any copying, printing, duplicating or resume preparation service  
2 which in no instance charges a fee, directly or indirectly, for providing  
3 any employment-related service other than copying, printing,  
4 duplicating or assisting in arranging the layout of a resume.

5 (cf: P.L.1989, c.331, s.5)

6

7 5. Section 6 of P.L.1989, c.331 (C.34:8-47) is amended to read as  
8 follows:

9 6. a. An application for an employment agency license required by  
10 this act shall be made in writing to the chief in the form prescribed by  
11 the [director] commissioner. The application shall state the complete  
12 address, including street and number, of the building and place where  
13 the agency is to be conducted and shall enumerate the types of services  
14 which the applicant intends to provide. The applicant shall furnish any  
15 additional information as may be required by the [director]  
16 commissioner for the purpose of investigating the character and  
17 responsibility of the applicant and its principal owners or its officers  
18 and directors.

19 b. The chief shall act upon any application for a license within 30  
20 days after receiving it, except that the [director] commissioner may  
21 extend the maximum time for acting upon an application to 60 days for  
22 the purpose of allowing an applicant to submit additional information  
23 or if a hearing on an application is required.

24 c. The [director] commissioner shall provide for the issuance of,  
25 and shall prescribe the form for, the licenses to be issued pursuant to  
26 this act.

27 d. An employment agency license shall not be transferred by the  
28 licensee to another person or amended without the written consent of  
29 the [director] commissioner and the payment of the fee prescribed by  
30 this act.

31 e. All licenses shall expire on January 1 of the year following their  
32 issuance.

33 (cf: P.L.1989, c.331, s.6)

34

35 6. Section 7 of P.L. 1989, c. 331 (C. 34:8-48) is amended to read  
36 as follows:

37 7. a. An application for an agent's license shall state the name and  
38 address of the applicant and any other name used by the applicant in  
39 the last six years, the name of the holder of the employment agency  
40 license by whom the applicant expects to be employed, and any other  
41 information concerning the applicant required by the chief to assist in  
42 the determination of the applicant's qualifications to provide the  
43 services for which the applicant would be licensed.

44 b. An agent's license shall not be issued until the holder of the  
45 employment agency license named in the application confirms to the  
46 chief in writing that the applicant is or will be employed by the

1 employment agency. A license issued to an agent of an employment  
2 agency shall not authorize employment by any other employment  
3 agency.

4 c. An applicant for an agent's license under this act shall, by means  
5 of whatever written examination is required by the [director]  
6 commissioner, reasonably satisfy the chief that the applicant:

7 (1) Has knowledge of the provisions of this act and applicable rules  
8 and regulations which is sufficient to ensure that the applicant is able  
9 to comply with the applicable laws and regulations; and

10 (2) Has knowledge of and experience in the fields of employment  
11 specified in the application which is sufficient to ensure that the  
12 applicant is able to render adequate and efficient service to job  
13 seekers.

14 d. An applicant for an agent's license shall furnish information  
15 which will reasonably satisfy the chief that the applicant has sufficient  
16 knowledge of employment opportunities, career guidance or  
17 counseling, or employment-related services or products which the  
18 applicant intends to provide to job seekers.

19 e. Upon the termination of the employment of the holder of an  
20 agent's license, the holder of the employment agency license by whom  
21 the holder of the agent's license has been employed shall promptly  
22 notify the chief of the termination of employment. The agent's license  
23 shall thereupon be canceled and the agent entitled to the issuance of  
24 a new license for the unexpired term of the old license without  
25 payment of an additional fee upon the written request of the agent, and  
26 the holder of the employment agency license who is to be named in the  
27 new license as the new employer, except that the [director]  
28 commissioner may refuse to issue the new license for any good cause  
29 shown within the provisions of this act.

30 f. For the purpose of enabling individuals to secure experience and  
31 knowledge necessary to qualify them as an agent, the [director]  
32 commissioner may waive any of the requirements of this section which  
33 the [director] commissioner deems proper and issue a conditional  
34 license authorizing the holder to perform functions requiring a license,  
35 when acting under the direct supervision of a duly qualified licensed  
36 agent. The conditional license shall remain in effect for not more than  
37 one year.

38 g. The [director] commissioner shall provide for the issuance of,  
39 and shall prescribe the form for, the licenses authorized to be issued  
40 pursuant to this act.

41 h. The [director] commissioner may require licenses to be posted  
42 and identification cards to be carried.

43 i All licenses shall expire on January 1 of the year following their  
44 issuance.

45 (cf: P.L.1989, c.331, s.7)

1       7. Section 8 of P.L.1989, c.331 (C.34:8-49) is amended to read as  
2 follows:

3       8. a. Before an employment agency license is issued, the applicant  
4 shall post with the [director] commissioner a bond in the amount of  
5 \$10,000, with a duly authorized surety company as surety, to be  
6 approved by the [director] commissioner.

7       b. The bond shall be retained by the chief until 90 days after either  
8 the expiration or revocation of the employment agency license, as  
9 appropriate.

10       c. The bond shall be payable to the State of New Jersey and upon  
11 the condition that the person applying for the license will comply with  
12 this act and will pay all damages occasioned to any person by reason  
13 of any misrepresentative, deceptive, or misleading act or practice, or  
14 any unlawful act or omission of any licensed person, agents, or  
15 employees, while acting within the scope of employment, made,  
16 committed or omitted in the business conducted under the license, or  
17 caused by any violation of this act in carrying on the business for  
18 which the license is granted.

19       d. In case of a breach of the condition of any bond, application may  
20 be made to the [director] commissioner by the person injured by the  
21 breach for leave to sue upon the bond, which shall be granted by the  
22 [director] commissioner if it is proven that the condition of the bond  
23 has been breached and that the person has been injured. The person  
24 obtaining leave to sue shall be furnished with a certified copy of the  
25 bond and shall be authorized to institute suit on the bond in the  
26 person's name for the recovery of damages sustained by the breach.

27       e. If at any time, in the opinion of the [director] commissioner, the  
28 surety on any bond shall become irresponsible, the person holding the  
29 license shall, upon notice from the [director] commissioner, give a new  
30 bond, subject to the provisions of this section. The failure to give a  
31 new bond within 10 days after notice, at the direction of the [director]  
32 commissioner, shall operate as revocation of the license, and the  
33 license shall be returned to the [director] commissioner.

34 (cf: P.L.1989, c.331, s.8)

35

36       8. Section 10 of P.L.1989, c.331 (C.34:8-51) is amended to read  
37 as follows:

38       10. a. Every employment agency shall:

39       (1) Keep and make available to the chief, or a designee, during  
40 regular business hours, records containing information regarding  
41 services provided, products sold to job seekers or employers, and fees  
42 charged or collected, and other information required by rules and  
43 regulations to enable the chief to determine the status of compliance  
44 with the provisions of this act;

45       (2) Require all job seekers applying for positions of trust or work  
46 with private families to furnish the agency with names and addresses

1 of individuals available as character references, and shall communicate,  
2 orally or in writing, with at least one of the individuals given by the job  
3 seeker as a character reference. If the job seeker has not furnished the  
4 name of any individuals available as character references, or if no  
5 favorable statement has been received from a character reference, the  
6 agency shall so advise the prospective employer to whom the job  
7 seeker is referred. This information shall be written upon the referral  
8 slip given by the agency to the job seeker to present to the prospective  
9 employer. The written result of the verification to determine the  
10 character and responsibility of any job seeker shall be kept on file in  
11 the agency subject to examination by the chief. If the employer  
12 voluntarily waives, in writing, a verification of references, the licensed  
13 agency shall not be required to make the verification;

14 (3) Give to each job seeker a copy of every writing the job seeker  
15 has signed, the form of which complies with P.L.1980, c.125  
16 (C.56:12-1 et seq.).

17 (4) Furnish to each job seeker, who is sent to a prospective  
18 employer for an interview concerning the job seeker's qualifications or  
19 future employment in a job for which no order has been given to the  
20 agency, a card or paper containing the names of the job seeker and  
21 prospective employer, the address of the prospective employer and any  
22 other particulars the agency may determine are necessary. In each  
23 case, there shall be printed in bold-faced type on the card or paper the  
24 following:

25 "This card of introduction is given to . . . . . (name of job  
26 seeker) with the understanding that there is no obligation to this  
27 employment agency for any fee until, as a result of the services  
28 rendered by this agency, . . . . . (name of job seeker) is employed  
29 in a job with respect to which the agency received a bona fide order  
30 from an employer. . . . . (name of job seeker) has agreed to  
31 pay the fee under the foregoing conditions if the fee is not paid by an  
32 employer."

33 (5) Post in the agency in the places that the chief, or a designee,  
34 directs, an abstract of this act and the rules and regulations  
35 promulgated by the [director] commissioner. The chief shall provide  
36 the abstracts and charge for the printing of these abstracts.

37 (6) Provide, prior to assignment or at the time of assignment, a  
38 written contract to a job seeker who is being or has been assigned to  
39 the agency's customer on a part-time or temporary basis, which  
40 contract shall include: the name of the supervisor, if known; a  
41 description of the tasks to be performed by the job seeker and the  
42 skills and experience of the job seeker expected by the customer; the  
43 period of the assignment; the hours of work; the dress code of the  
44 customer in the workplace; any worker rights; and any known hazards  
45 at the work site to which the job seeker is being assigned.

46 (7) File with the commissioner, at the time of the agency's annual

1 registration, a report on the total number of job seekers the agency  
2 assigned to the agency's customers on a part-time or temporary basis  
3 and the total number of days of work those job seekers performed for  
4 those customers during the immediately preceding calendar year; the  
5 total number of days of work each such job seeker performed for each  
6 customer during the immediately preceding calendar year; and the total  
7 number of such job seekers assigned to each customer during the  
8 immediately preceding calendar year and the total number of days of  
9 work those job seekers performed for each customer during the  
10 immediately preceding calendar year.

11 b. In addition to the requirements set forth in subsection a., each  
12 employment agency which charges or may charge the job seeker a fee  
13 shall:

14 (1) File with the chief, for the chief's approval, a schedule of fees  
15 proposed to be charged for any service rendered or product sold to job  
16 seekers and adhere to the schedule in charging for these services or  
17 products. The chief shall not approve the fee schedule unless the chief  
18 is satisfied that the fee schedule is on a form which makes the schedule  
19 reasonably understandable by job seekers and that the fee schedule is  
20 in compliance with all other provisions of this section. The schedule  
21 of fees may thereafter be changed or supplemented, by filing an  
22 amended or supplemental schedule with the bureau. The changes shall  
23 not become effective until approval has been granted by the chief and  
24 the amended or supplemental fee schedule has been posted for not less  
25 than seven days in a conspicuous manner in the office of the agency.  
26 It shall be unlawful for any employment agency to charge, demand,  
27 collect or receive a greater fee for any service rendered or product  
28 sold to a job seeker than is specified in the most recent schedule filed  
29 with the bureau;

30 (2) Post the schedule of fees in a conspicuous manner in the office  
31 of the agency using forms provided by the chief;

32 (3) Compute fees paid by a job seeker seeking employment on the  
33 basis of permanent employment, unless the employment is temporary  
34 employment. Where temporary employment merges into permanent  
35 employment, or where a job seeker accepts permanent employment  
36 within 30 days after the termination of temporary employment, the  
37 permanent employment may be considered the result of the references  
38 to the temporary position and the fee may be based on the permanent  
39 employment with due credit given for the payment made for the  
40 temporary employment;

41 (4) Not charge to a job seeker who obtains employment and who  
42 is discharged without cause or who voluntarily terminates employment  
43 for just cause more than 1% of the scheduled fee for each day worked.  
44 For purposes of this paragraph, the employment agency shall repay to  
45 any job seeker so discharged or terminated any excess of the maximum  
46 fee in accordance with the fee schedule, allowing three days' time to

1 determine that the termination was not due to any fault on the part of  
2 the job seeker. The employment agency may, however, by separate  
3 written agreement between the employment agency and the job seeker,  
4 retain the fee or any part of the fee which has been paid for the job  
5 from which the job seeker has been discharged without cause or  
6 terminated, if the agency furnishes the job seeker with another job and  
7 allows due credit for the retained payment;

8 (5) Not charge a job seeker who either fails to report for duty after  
9 accepting employment or voluntarily terminates employment without  
10 just cause within 30 days more than 30% of the scheduled fee;

11 (6) Obtain a bona fide order for employment prior to collecting any  
12 fee from a job seeker or sending out a job seeker to any place of  
13 employment. Except as may be otherwise provided in rules and  
14 regulations, no charge or advance fee of any kind shall be charged,  
15 demanded, collected, or received by the agency from a job seeker  
16 seeking employment until employment has been obtained by or through  
17 the efforts of the agency;

18 (7) Give to every job seeker from whom a fee is received, at the  
19 time payment is received, a receipt which shall state the name of the  
20 job seeker, the name and address of the employment agency and its  
21 agent, the date and amount of the fee and the purpose for which it was  
22 paid; and

23 (8) Furnish each job seeker, who is sent to a prospective employer,  
24 with a card or similar paper containing the nature of the prospective  
25 employment, the names of the job seeker and prospective employer,  
26 and the address of the employer.

27 (cf: P.L.1989, c.331, s.10)

28

29 9. Section 11 of P.L.1989, c.331 (C.34:8-52) is amended to read  
30 as follows:

31 11. It shall be a violation of the provisions of this act for any  
32 person to:

33 a. Open, conduct, or maintain, either directly or indirectly, an  
34 employment agency or perform any of the functions of an employment  
35 agency without first obtaining a valid employment agency license from  
36 the [director] commissioner and complying with all requirements of  
37 this act regarding agents' licenses for the agents of the agency. A  
38 license shall not authorize the furnishing of help or employment or the  
39 furnishing of information where help or employment may be procured  
40 in the capacity of baby sitters. A license shall not authorize activities  
41 of any person other than the individual person or persons holding the  
42 license, except that a corporation may be the holder of an employment  
43 agency license. A license shall not authorize activities at any place  
44 other than the place designated in the license except upon issuance of  
45 a special permit by the [director] commissioner. A licensee may  
46 engage in activities requiring registration under sections 23, 24 and 25

- 1 of this act if it complies with the requirements of those sections.
- 2 b. Conduct business, or any phase thereof, in any room or place  
3 where:
- 4 (1) An individual sleeps or conducts his or her household affairs,  
5 unless the business premises have separate ingress and egress from the  
6 residential premises;
- 7 (2) Premises are rented or leased on an hourly, daily, weekly, or  
8 other transient basis except as otherwise provided by regulation;
- 9 c. Charge or accept payment of any fees which are greater than  
10 those shown by any schedule of fees which is required to be filed with  
11 the chief and posted in the agency;
- 12 d. Accept and receive any gift as, or in lieu of, a fee;
- 13 e. Divide or offer to divide fees, directly or indirectly, with  
14 prospective or actual employers or any agent, employee, or  
15 representative;
- 16 f. Accept payment of a fee or attempt to collect any fee for a  
17 service rendered or product sold where employment has not been  
18 accepted, except that the requirements of this subsection shall not  
19 apply to any career counseling service if that service receives no  
20 prepayment for services or products and provides services or products  
21 strictly on an hourly basis, with no financial obligation required of the  
22 job seeker beyond the hourly fee for the services or products rendered;
- 23 g. Falsely state or imply to a job seeker that the person is seeking  
24 to obtain individuals to perform services, tasks or labor for which  
25 salary, wages, or other compensation is to be paid;
- 26 h. Send or cause to be sent any individual to any place used for  
27 unlawful purposes;
- 28 i. Place or assist in placing an individual under 18 years of age into  
29 employment which is in violation of the laws of this State;
- 30 j. Induce or compel any individual to enter the agency, for any  
31 purpose, by the use of force or by taking forcible possession of the  
32 individual's property;
- 33 k. Publish or cause to be published any deceptive or misleading  
34 notice or advertisement. All advertisements of any agency by any  
35 means, including, but not limited to, cards, circulars or signs, or in  
36 newspapers and other publications, and all letterheads, receipts and  
37 blanks, shall contain the name and address of the agency;
- 38 l. Make a deceptive or misleading representation to a job seeker or  
39 employer, or enter into any contract with any job seeker or employer  
40 or induce or attempt to induce any job seeker or employer to make any  
41 agreement, the provisions of which contract or agreement, if fulfilled,  
42 violate this act;
- 43 m. Require that a job seeker enter into a contract with the agency  
44 or any specific lender for the purpose of fulfilling a financial obligation  
45 to the employment agency;
- 46 n. Demand, charge, collect, or receive a fee unless in accordance

1 with the terms of a written contract or agreement with a job seeker;  
2 o. Engage in any act or practice in violation of P.L.1960, c.39  
3 (C.56:8-1 et seq.) and regulations promulgated thereunder.  
4 (cf: P.L.1989, c.331, s.11)  
5

6 10. Section 12 of P.L.1989, c.331 (C.34:8-53) is amended to read  
7 as follows:

8 12. The [director] commissioner may refuse to issue, and may  
9 revoke, any license for failure to comply with, or violation of, the  
10 provisions of this act or for any other good cause shown, within the  
11 meaning and purpose of this act. A refusal or revocation shall not be  
12 made except upon reasonable notice to, and opportunity to be heard  
13 by, the applicant or licensee. The [director] commissioner may, if he  
14 finds it to be in the public interest, suspend a license for any period of  
15 time that he determines to be proper or assess a penalty in lieu of  
16 suspension, or both, and may issue a new license, notwithstanding the  
17 revocation of a prior license, provided that he finds the applicant to  
18 have become entitled to the new license.  
19 (cf: P.L.1989, c.331, s.12)  
20

21 11. Section 13 of P.L.1989, c.331 (C.34:8-54) is amended to read  
22 as follows:

23 13. To accomplish the objectives and carry out the duties  
24 prescribed by this act, the [director] commissioner may issue  
25 subpoenas to any person, administer an oath or affirmation to any  
26 person, conduct hearings in aid of any investigation or inquiry,  
27 promulgate rules and regulations, and prescribe forms as may be  
28 necessary.  
29 (cf: P.L.1989, c.331, s.13)  
30

31 12. Section 14 of P.L. 1989, c. 331 (C. 34:8-55) is amended to  
32 read as follows:

33 14. Whenever it appears to the [director] commissioner that a  
34 person has engaged in, is engaging in, or is about to engage in, any  
35 practice declared to be unlawful by this act, or whenever the [director]  
36 commissioner believes it to be in the public interest that an  
37 investigation should be made to ascertain whether a person has  
38 engaged in, is engaging in, or is about to engage in, any unlawful  
39 practice, the [director] commissioner may:

40 a. Require the person to file, on forms prescribed by him, a written  
41 statement or report, under oath or otherwise, concerning the facts and  
42 circumstances regarding the practice which is under investigation;

43 b. Examine under oath any person in connection with the practice  
44 under investigation;

45 c. Examine any record, book, document, account, contract, or  
46 paper as he deems necessary; and

1 d. Pursuant to an order of the Superior Court, impound any record,  
2 book, document, account, contract, or paper that is produced in  
3 accordance with this act, and retain it until the completion of all  
4 proceedings in connection with the materials produced.

5 (cf: P.L.1989, c.331, s.14)

6

7 13. Section 15 of P.L.1989, c.331 (C.34:8-56) is amended to read  
8 as follows:

9 15. Service by the [director] commissioner of any notice requiring  
10 a person to file a statement or report, or of a subpoena upon the  
11 person, shall be made personally within this State, but if this cannot be  
12 done, substituted service may be made in the following manner:

13 a. Personal service outside this State;

14 b. The mailing by registered or certified mail to the last known  
15 place of business or residence inside or outside the State of the person;

16 c. As to any person other than an individual, in accordance with the  
17 Rules Governing the Courts of the State of New Jersey pertaining to  
18 service of process, provided, however, that service shall be made by  
19 the [director] commissioner; or

20 d. Any service as the Superior Court may direct in lieu of personal  
21 service within the State.

22 (cf: P.L.1989, c.331, s.15)

23

24 14. Section 16 of P.L.1989, c.331 (C.34:8-57) is amended to read  
25 as follows:

26 16. If a person fails or refuses to file any statement or report  
27 requested by the [director] commissioner, or obey any subpoena  
28 issued by the [director] commissioner, the [director] commissioner  
29 may seek and obtain an order from the Superior Court:

30 a. Adjudging the person in contempt of court;

31 b. Granting injunctive relief, without notice, restraining any and all  
32 acts and practices for which a license is required in the provisions of  
33 this act;

34 c. Directing the payment of reasonable attorneys' fees and costs of  
35 the investigation and suit; and

36 d. Granting any other relief as may be required, until the person  
37 files the statement or report, or obeys the subpoena.

38 (cf: P.L.1989, c.331, s.16)

39

40 15. Section 17 of P.L.1989, c.331 (C.34:8-58) is amended to read  
41 as follows:

42 17. a. Whenever it appears to the [director] commissioner that a  
43 person has engaged in, is engaging in, or is about to engage in, any  
44 practice which is a violation of the provisions of this act, the [director]  
45 commissioner may seek and obtain in a summary action in the Superior  
46 Court an injunction prohibiting the person from continuing the

1 practices or engaging therein or doing any acts in furtherance thereof.  
2 b. In addition to any other remedy, the court may: enjoin an  
3 individual from managing or owning any business organization within  
4 this State, and from serving as an officer, director, trustee, member of  
5 any executive board or similar governing body, principal, manager,  
6 stockholder owning 10% or more of the aggregate outstanding capital  
7 stock of all classes of any corporation doing business in this State;  
8 vacate or annul the charter of a corporation created by or under the  
9 laws of this State; revoke the certificate of authority to do business in  
10 this State of a foreign corporation; and revoke any licenses issued  
11 pursuant to law to the person whenever the charter, authority, or  
12 license have been or may be used to engage in or to further unlawful  
13 practices. The court may grant any relief as may be necessary to  
14 prevent the use or employment by a person of any unlawful practices,  
15 or which may be necessary to restore to any person in interest any  
16 moneys or property, real or personal, which may have been acquired  
17 by means of any practices declared to be unlawful.  
18 (cf: P.L.1989, c.331, s.17)

19

20 16. Section 18 of P.L.1989, c.331 (C.34:8-59) is amended to read  
21 as follows:

22 18. Whenever it appears to the [director] commissioner that a  
23 person has engaged in, is engaging in, or is about to engage in, any  
24 practice which is a violation of the provisions of this act, the [director]  
25 commissioner may hold hearings on the violation and upon finding the  
26 violation to have been committed, may enter an order:

27 a. Directing the person to cease and desist or refrain from  
28 committing the practice in the future;

29 b. Directing the person to restore to any person in interest any  
30 moneys or property, real or personal, which may have been acquired  
31 by means of any unlawful practice;

32 c. Assessing reasonable attorneys' fees and costs of investigation  
33 and suit;

34 d. Assessing a penalty in the amount authorized by the provisions  
35 of section 19 of this act, which the [director] commissioner deems  
36 proper under the circumstances; and

37 e. Directing the person to reimburse the job seeker for  
38 transportation expenses if no employment of the kind applied for exists  
39 at the place to which the job seeker is sent and the person did not have  
40 a bona fide order, either oral or written, from the prospective  
41 employer.

42 (cf: P.L.1989, c.331, s.18)

43

44 17. Section 19 of P.L.1989, c.331 (C.34:8-60) is amended to read  
45 as follows:

46 19. Whenever it appears to the [director] commissioner that a

1 person against whom a cease and desist order has been entered has  
2 violated the order, the [director] commissioner may bring a summary  
3 proceeding in the Superior Court based upon the violation. A person  
4 found to have violated a cease and desist order shall be liable for civil  
5 penalties in the amount of not less than \$1,000 or more than \$25,000  
6 for each violation of the order, together with reasonable attorneys' fees  
7 and cost of investigation and suit. If any person fails to pay a civil  
8 penalty imposed by the court for violation of a cease and desist order,  
9 the court imposing the penalty is authorized, upon application of the  
10 [director] commissioner, to grant any relief which may be obtained  
11 under any statute or court rule governing the collection and  
12 enforcement of penalties.

13 (cf: P.L.1989, c.331, s.19)

14

15 18. Section 21 of P.L.1989, c.331 (C.34:8-62) is amended to read  
16 as follows:

17 21. In any action or proceeding brought under this act the  
18 [director] commissioner may recover reasonable attorneys' fees and  
19 costs of investigation and suit.

20 (cf: P.L.1989, c.331, s.21)

21

22 19. Section 22 of P.L.1989, c.331 (C.34:8-63) is amended to read  
23 as follows:

24 22. Upon the failure of a person to comply within 10 days after  
25 service of any order of the [director] commissioner directing payment  
26 of penalties, costs, attorneys' fees, reimbursement, or restoration of  
27 moneys or property, the [director] commissioner may issue a  
28 certificate to the clerk of the Superior Court that the person is  
29 indebted to the State for these payments. A copy of the certificate  
30 shall be served upon the person against whom the order was entered.  
31 The clerk shall immediately enter upon his record of docketed  
32 judgments the name of the person so indebted, a designation of the  
33 statutes under which the payments are imposed, the amount of each  
34 payment imposed, and a listing of property ordered restored, and the  
35 date of the certification. The entry shall have the same force and  
36 effect as the entry of the docketed judgment in the Superior Court.  
37 The entry, however, shall be without prejudice to the right of appeal  
38 to the Appellate Division of the Superior Court from the final order of  
39 the [director] commissioner.

40 (cf: P.L.1989, c.331, s.22)

41

42 20. Section 23 of P.L.1989, c.331 (C 34:8-64) is amended to read  
43 as follows:

44 23. a. Every consulting firm operating within this State shall,  
45 within 60 days following the effective date of this act and annually  
46 thereafter, register in writing with the chief on a form prescribed by

1 regulation.

2 b. Each registration form shall state the firm's name, and any  
3 fictitious or trade name used in its operation, each primary location,  
4 including street and street number of the building and place where its  
5 business is to be conducted, and the names and residence addresses of  
6 its principal owners or officers.

7 c. The [director] commissioner shall establish by rule and collect  
8 an annual fee from firm registrants, which shall not be more than the  
9 fee paid by employment agencies, to be used to the extent necessary  
10 to defray expenses incurred by the bureau in the performance of its  
11 duties under this section.

12 d. In addition to any act or practice in violation of P.L.1960, c.39  
13 (C.56:8-1 et seq.), it shall be a violation of this act for any registrant  
14 or its agent to:

15 (1) Make, or cause to be made, publish or cause to be published,  
16 any false, misleading, or deceptive advertisement or representation  
17 concerning the services or products that the registrant provides to job  
18 seekers.

19 (2) Disseminate information to a job seeker knowing or recklessly  
20 disregarding information that:

21 (a) The job does not exist or the job seeker is not qualified for the  
22 job;

23 (b) The job has been described or advertised by or on behalf of the  
24 registered firm in a false, misleading, or deceptive manner;

25 (c) The registrant has not confirmed the availability of the job at  
26 the time of dissemination of the information; or

27 (d) The registrant has not obtained written or oral permission to  
28 list the job from the employer or an authorized agent of the employer.

29 e. The [director] commissioner may refuse to issue, and may  
30 revoke, any registration for failure to comply with, or violation of, the  
31 provisions of this section or for any other good cause shown, within  
32 the meaning and purpose of this section. A refusal or revocation shall  
33 not be made except upon reasonable notice to, and opportunity to be  
34 heard by, the applicant or registrant.

35 f. The [director] commissioner, instead of revoking a registration,  
36 may suspend the registration for a period of time determined to be  
37 proper, or assess a penalty in lieu of suspension, or both, and may  
38 issue a new registration notwithstanding the revocation of a prior  
39 registration, provided that the applicant is found to have become  
40 entitled to the new registration.

41 g. A registered consulting firm shall be permitted to provide  
42 temporary help services in the course of its business.

43 h. A registered firm may engage in activities requiring registration  
44 under sections 24 and 25 of this act if it complies with the  
45 requirements of those sections.

46 i. Any person who fails to comply with the provisions of this

1 section or rules and regulations promulgated by the [director]  
2 commissioner shall be subject to the provisions of sections 14 through  
3 22 of this act.

4 (cf: P.L.1989, c.331, s.23)

5

6 21. Section 24 of P.L.1989, c.331 (C.34:8-65) is amended to read  
7 as follows:

8 24. a. Every career consulting or outplacement organization  
9 operating within this State shall, within 60 days following the effective  
10 date of this act and annually thereafter, register in writing with the  
11 chief on a form prescribed by regulation.

12 b. Each registration form shall state the organization's name, and  
13 any fictitious or trade name used in its operation, each primary  
14 location, including street and street number of the building and place  
15 where its business is to be conducted, and the names and residence  
16 addresses of its principal owners or officers.

17 c. In addition to registering pursuant to this section, each career  
18 consulting or outplacement organization shall notify the chief, in  
19 writing, whenever it utilizes any location, including mobile units, other  
20 than its primary location for services rendered to job seekers.

21 d. Every agent, duly authorized and empowered by the owner of  
22 the registered organization to solicit business or otherwise act as an  
23 agent of the registered organization, shall, within 60 days following  
24 the effective date of this act and annually thereafter, register, in  
25 writing, with the chief on a form prescribed by regulation.

26 e. The [director] commissioner shall establish by rule and collect  
27 an annual fee from organization and agent registrants, which shall not  
28 be more than that paid by employment agencies or agents, to be used  
29 to the extent necessary to defray all expenses incurred by the bureau  
30 in the performance of its duties under this section.

31 f. Each registered organization shall, at the time of its initial  
32 registration with the [director] commissioner and annually thereafter,  
33 post a bond in the amount of \$10,000 with a duly authorized surety  
34 company as surety, to be approved by the [director] commissioner.  
35 The bond shall be retained by the chief until 90 days after either the  
36 expiration or revocation of the registration. The [director]  
37 commissioner shall promulgate rules and regulations setting forth the  
38 terms and conditions of this bond and supply the prospective registrant  
39 firm with an approved form.

40 g. Every career consulting or outplacement organization registered  
41 under this section shall provide each prospective job seeker desiring  
42 its services or products with a written explanation of each service or  
43 product which it provides or makes available to job seekers and the  
44 price for each service or product which shall be made available to the  
45 job seeker at the time of the signing of any contract for services or  
46 products.

1 h. Any job seeker who signs a contract with any registered  
2 organization shall have the right to cancel the contract within three  
3 calendar days of the time of its signing and, upon the return of any  
4 materials provided to the job seeker by the registered organization,  
5 shall be entitled to receive a full refund of any fee, charge, or  
6 commission paid by the job seeker.

7 i. Not more than one-third of any fee, charge or commission shall  
8 be collected by the registered organization for its services or products  
9 more than 60 days in advance of the date on which the registrant  
10 provides its services or products as stated in its contract.

11 j. Every registered organization shall respond, in writing, within  
12 nine calendar days of receipt of any written complaint by a job seeker,  
13 stating the registered organization's position with respect to the  
14 complaint. Copies of a job seeker's complaint and the response shall  
15 be kept in a separate file by the registered organization for a period of  
16 one year after the date of the resolution of the complaint, or two years  
17 after the date of the complaint, whichever is later.

18 k. If a demand for refund is denied by a registered organization and  
19 if the denial is found to have been in bad faith or if the registered  
20 organization fails to respond to a demand for a refund, a court in an  
21 action instituted by the job seeker shall award damages to the job  
22 seeker in an amount not to exceed \$200 in addition to actual damages  
23 sustained by the job seeker, together with reasonable attorneys' fees,  
24 filing fees, and reasonable costs of suit. If the registered organization  
25 refuses or is unable to pay the amount awarded by the court, the award  
26 may be satisfied out of the registered organization's bond.

27 l. A registered organization shall not:

28 (1) Negotiate a job seeker's compensation and demand or receive  
29 a percentage therefrom as a fee, charge, or commission unless the  
30 percentage fee, charge, or commission has been disclosed to and  
31 accepted by the job seeker in the contract;

32 (2) Contract with employers on behalf of a job seeker; or

33 (3) Solicit job openings from employers or otherwise act as an  
34 intermediary for job seekers.

35 m. Every contract for career consulting or outplacement  
36 organizations shall be in writing. A copy of the contract shall be given  
37 to the job seeker at the time the job seeker signs the contract. The  
38 contract shall contain all of the following:

39 (1) The name, address, and telephone number of the organization  
40 and the name of the organization's agent.

41 (2) The name and address of the individual signing the contract and  
42 the job seeker to whom the services are to be provided.

43 (3) A description of the services or products to be provided; a  
44 statement of when those services or products are to be provided and  
45 by which organizations, if other than the contracting organization; the  
46 term of the contract; and refund provisions, as applicable, if the

1 described services or products are not provided according to the  
2 contract.

3 (4) The amount of the fee to be charged to or collected from the  
4 job seeker receiving the services or products or from any other  
5 individual, and the date or dates when that fee is required to be paid.

6 (5) The following statements, in at least 10-point bold-faced type:

7 "No verbal or written promise or guarantee of any job or  
8 employment is made or implied under the terms of this contract.

9 This organization is registered with the Bureau of Employment and  
10 Personnel Services of the State of New Jersey, (current address of the  
11 bureau). Inquiries concerning your contract may be sent to this  
12 address."

13 (6) The following statement, in at least 10-point bold-faced type:

14

15 "YOUR RIGHT TO CANCEL

16

17 You may cancel this contract for services or products, without any  
18 penalty or obligation, if notice of cancellation is given, in writing,  
19 within three calendar days after you have signed this contract.

20 To cancel this contract, just mail or deliver a signed and dated copy  
21 of the following cancellation notice or any other written notice of  
22 cancellation, or send a telegram containing a notice of cancellation, to  
23 (name of registrant) at (address of its place of business), not later than  
24 midnight of the third calendar day after you signed this contract.

25

26 CANCELLATION NOTICE

27

28 I hereby cancel this contract.

29

30 Dated: .....

31

32 .....

33 Job seeker's Signature

34

35 .....

36 Job seeker's Name (print)

37

38 .....

39 Address"

40

41 The requirement that the contract include this statement regarding  
42 the right to cancel shall not apply when time is of the essence and the  
43 services or products must be performed or provided within three  
44 calendar days of the date that the contract is entered into pursuant to  
45 the request of the job seeker, if the job seeker furnishes the registered  
46 organization with a separate dated and signed personal statement in

1 the job seeker's own handwriting, describing the situation requiring the  
2 immediate provision of services or products and expressly  
3 acknowledging and waiving the right to cancel the contract within  
4 three calendar days.

5 (7) Any further information specified in regulations adopted by the  
6 [director] commissioner.

7 n. The requirements of this section shall not apply to any person  
8 who receives no prepayment for services or products from a job seeker  
9 and who:

10 (1) Provides services or products strictly on an hourly basis, with  
11 no financial obligation required of the job seeker beyond the hourly fee  
12 for services or products rendered; or

13 (2) Provides outplacement services exclusively as part of a job  
14 seeker's benefit or severance package with a current or former  
15 employer.

16 o. Newspaper advertising pertaining to services offered or  
17 provided in this State by career consulting or outplacement  
18 organizations appearing within or adjacent to help-wanted advertising  
19 shall contain the phrase "not an employment agency" in a clear,  
20 conspicuous, and prominent manner.

21 p. In addition to any act or practice in violation of P.L.1960, c.39  
22 (C.56:8-1 et seq.), it shall be a violation of this act for any registrant  
23 or its agent to:

24 (1) Make, or cause to be made, publish or cause to be published,  
25 any false, misleading, or deceptive advertisement or representations  
26 concerning the services or products that the registrant provides to job  
27 seekers.

28 (2) Disseminate information to a job seeker knowing or recklessly  
29 disregarding information that:

30 (a) The job does not exist or the job seeker is not qualified for the  
31 job;

32 (b) The job has been described or advertised by or on behalf of the  
33 registered organization in a false, misleading, or deceptive manner;

34 (c) The registrant has not confirmed the availability of the job at  
35 the time of dissemination of the information; or

36 (d) The registrant has not obtained written or oral permission to  
37 list the job from the employer or any authorized agent of the employer.

38 q. The [director] commissioner may refuse to issue, and may  
39 revoke, any registration for any failure to comply with, or violation of,  
40 the provisions of this section or for any other good cause shown,  
41 within the meaning and purpose of this section. A refusal or  
42 revocation shall not be made except upon reasonable notice to, and  
43 opportunity to be heard by, the applicant or registrant. The [director]  
44 commissioner, instead of revoking any registration, may suspend the  
45 registration for a period of time as shall be determined to be  
46 appropriate, or assess a penalty in lieu of suspension, or both, and may

1 issue a new registration notwithstanding the revocation of a prior  
2 registration provided that the applicant is found to have become  
3 entitled to the new registration.

4 r. A registered organization may engage in activities requiring  
5 registration under sections 23 and 25 of this act if it complies with the  
6 requirements of those sections.

7 s. Any person who fails to comply with the provisions of this  
8 section or rules and regulations promulgated by the [director]  
9 commissioner shall be subject to sections 14 through 22 of this act.  
10 (cf: P.L.1989, c.331, s.24)

11

12 22. Sections 25 of P.L.1989, c.331 (C.34:8-66) is amended to read  
13 as follows:

14 25. a. Every prepaid computer job matching service or job listing  
15 service operating or providing services or products within this State  
16 shall, within 60 days following the effective date of this act and  
17 annually thereafter, register, in writing, with the chief on a form  
18 prescribed by regulation.

19 b. Each registration form shall state the service's name and  
20 fictitious or trade name used in its operation, each primary location,  
21 including street and street number of the building and place where its  
22 business is to be conducted, and the names and residence addresses of  
23 its principal owners or officers.

24 c. In addition to registering pursuant to this section, a prepaid  
25 computer matching service or job listing service shall notify the bureau  
26 in writing whenever it utilizes any location, including mobile units,  
27 other than its primary location for the provision of services or  
28 products to job seekers.

29 d. Every agent, duly authorized and empowered by the owner of  
30 the registered service to solicit business or otherwise act as an agent  
31 of the registered service, shall, within 60 days following the effective  
32 date of this act and annually thereafter, register, in writing, with the  
33 chief on a form prescribed by regulation.

34 e. The [director] commissioner shall establish by rule and collect  
35 an annual fee from service and agent registrants, which shall not be  
36 more than that paid by employment agencies or agents, to be used to  
37 the extent necessary to defray all expenses incurred by the bureau in  
38 the performance of its duties under this section.

39 f. Each service applicant shall at the time of its initial registration  
40 with the [director] commissioner and annually thereafter, post a bond  
41 in the amount of \$10,000 with a duly authorized surety company as  
42 surety, to be approved by the [director] commissioner. The bond shall  
43 be retained by the chief until 90 days after either the expiration or  
44 revocation of the registration. The [director] commissioner shall  
45 promulgate rules and regulations setting forth the terms and conditions  
46 of this bond and supply the service applicant firm with an approved

- 1 form.
- 2 g. Prior to the acceptance of a fee from a job seeker, a registered  
3 service shall provide the job seeker with a written contract which shall  
4 include the following:
- 5 (1) The name of the registered service and the address and  
6 telephone number of each primary or other location of the registered  
7 service providing the listing to the job seeker.
- 8 (2) Acknowledgement of receipt of the registered service's fee  
9 schedule.
- 10 (3) A description of the service or product to be performed or  
11 product to be provided by the registered service, including significant  
12 conditions, restrictions, and limitations where applicable.
- 13 (4) A description of the job seeker's specifications for the  
14 employment opportunity, including, but not limited to, the following:
- 15 (a) Type of job.  
16 (b) Interests of job seeker.  
17 (c) Qualifications of job seeker.  
18 (d) Salary, benefits, and other conditions of employment.  
19 (e) Location of job.
- 20 (5) The contract expiration date, which shall not be later than 90  
21 days from the date of execution of the contract.
- 22 (6) A clause setting forth the right to a full refund of the fee paid  
23 in advance.
- 24 (7) The signature of the registered service's agent.
- 25 (8) The following statement, printed on the face of the contract in  
26 type no smaller than 10-point bold-faced type:
- 27 "This service is registered with the Bureau of Employment and  
28 Personnel Services of the State of New Jersey, (current address of  
29 bureau). Inquiries concerning your contract may be sent to this  
30 address."
- 31 (9) At the bottom of the contract a notice to the effect that the  
32 contract is the property of the job seeker and shall not be taken from  
33 the job seeker.
- 34 h. Every contract or receipt shall be made and numbered  
35 consecutively in original and duplicate, both to be signed by the job  
36 seeker and the service's agent. The original shall be given to the job  
37 seeker and the duplicate shall be kept on file at the service's primary  
38 location.
- 39 i. The form of contract proposed to be used by a registrant to  
40 effect compliance with this section shall be filed with the bureau prior  
41 to use. Any modification of a form previously filed with the bureau,  
42 including a change in the name or a primary location of the registered  
43 service, shall also be filed prior to use.
- 44 j. A registered service shall refund in full the advance fee paid by  
45 a job seeker if the service does not, within five calendar days after  
46 execution of the contract, supply at least three employment

1 opportunities then available to the job seeker and meeting the  
2 specifications of the contract. A registered service will be deemed to  
3 have supplied information meeting the specifications of the job seeker  
4 if the information supplied meets the contract specifications with  
5 reference to:

- 6 (1) Name of employer and type of job;
- 7 (2) Interests of job seeker;
- 8 (3) Qualifications of job seeker;
- 9 (4) Salary, benefits, and other conditions of employment;
- 10 (5) Location of job; and
- 11 (6) Any other specification expressly set forth in the contract.

12 A demand for the return of the fee shall be made by or on behalf of  
13 the job seeker within 10 calendar days following the expiration of the  
14 five-day period referred to above by delivery or by registered or  
15 certified mail to the address of the office or location set forth in the  
16 contract.

17 k. A registered service shall refund any amount in excess of a \$25  
18 service charge to the job seeker if the job seeker does not obtain a job,  
19 provided that the job seeker demands a return of that part of the fee  
20 within 10 calendar days after the expiration of the contract.

21 l. If employment, once obtained, lasts less than 90 days, the fee  
22 paid shall be refunded as specified in subsection b. of section 10 of this  
23 act.

24 m. Each contract shall also contain refund provisions, approved by  
25 the bureau, which shall, unless different language is approved in  
26 writing by the bureau prior to use, read as follows:

27

28

#### "RIGHT TO REFUND

29

30 If within five calendar days after payment of any advance fee, the  
31 registrant has not supplied the job seeker with at least three available  
32 employment opportunities meeting the specifications of the contract  
33 as to (1) name of the employer and type of job; (2) interest of job  
34 seeker; (3) qualifications of job seeker; (4) salary, benefits, and other  
35 conditions of employment; (5) location of job; and (6) any other  
36 specification expressly set forth in the contract, the full amount of the  
37 fee paid shall be refunded to the job seeker within 10 calendar days  
38 after the expiration of the five-day period."

39 If the job seeker does not obtain a job through the services of the  
40 registered service, any amount paid in fees in excess of a \$25 service  
41 charge shall be refunded to the job seeker, upon demand by the job  
42 seeker made within 10 calendar days of the expiration of the contract.

43 n. Every registered service shall respond, in writing, within nine  
44 calendar days of receipt of any written complaint by a job seeker,  
45 stating the registered service's position with respect to that complaint.  
46 A copy of a job seeker's complaint and the response shall be kept in a

1 separate file by the registered service for a period of one year after the  
2 date of the resolution of the complaint, or two years after the date of  
3 the complaint, whichever is later.

4 o. If a demand for refund is denied by a registered service, and if  
5 the denial is found to have been in bad faith or if the registered service  
6 fails to respond to a demand for a refund, a court in an action  
7 instituted by the job seeker shall award damages to the job seeker in  
8 an amount not to exceed \$200.00 in addition to actual damages  
9 sustained by the job seeker, together with reasonable attorneys' fees,  
10 filing fees, and reasonable costs of suit. If the registered service  
11 refuses or is unable to pay the amount awarded by the court, the award  
12 may be satisfied out of the registered service's bond.

13 p. In addition to any act or practice in violation of P.L.1960, c.39  
14 (C.56:8-1 et seq.), it shall be a violation of this act for any registrant  
15 or its agent to:

16 (1) Make, or cause to be made, publish or cause to be published,  
17 any false, misleading, or deceptive advertisement or representations  
18 concerning the services or products that the registrant provides to job  
19 seekers; or

20 (2) Disseminate information to a job seeker knowing or recklessly  
21 disregarding information that:

22 (a) The job does not exist or the job seeker is not qualified for the  
23 job;

24 (b) The job has been described or advertised by or on behalf of the  
25 registered service in a false, misleading, or deceptive manner;

26 (c) The registrant has not confirmed the availability of the job at  
27 the time of dissemination of the information; or

28 (d) The registrant has not obtained written or oral permission to  
29 list the job from the employer or an authorized agent of the employer.

30 q. The [director] commissioner may refuse to issue, and may  
31 revoke, any registration for any failure to comply with, or any  
32 violation of, the provisions of this section or for any other good cause  
33 shown, within the meaning and purpose of this section. A refusal shall  
34 not be made except upon reasonable notice to, and opportunity to be  
35 heard by, the applicant or registrant as the case may be. The  
36 [director] commissioner instead of revoking any registration may  
37 suspend the registration for a period of time as determined to be  
38 proper, or assess a penalty in lieu of suspension, or both; and may  
39 issue a new registration notwithstanding the revocation of a prior  
40 registration provided that the applicant is found to have become  
41 entitled to the new registration.

42 r. Any person who fails to comply with the provisions of this  
43 section or rules and regulations promulgated by the [director]

1 commissioner shall be subject to the provisions of sections 14 through  
2 22 of this act.

3 (cf: P.L.1989, c.331, s.25)

4

5 23. (New section) a. All the powers, functions and duties  
6 exercised by the Attorney General, the Director of the Division of  
7 Consumer Affairs within the Department of Law and Public Safety and  
8 the Chief of the Bureau of Employment and Personnel Services in the  
9 Division of Consumer Affairs within the Department of Law and  
10 Public Safety pursuant to P.L. 1989, c. 331 (C. 34:8-43 et seq.) are  
11 hereby transferred to and vested in the Commissioner of Labor and the  
12 Chief of the Bureau of Employment and Personnel Services within the  
13 Department of Labor.

14 b. All rules and regulations promulgated by the Attorney General  
15 or Director of the Division of Consumer Affairs within the Department  
16 of Law and Public Safety pursuant to P.L. 1989, c. 331 (C. 34:8-43 et  
17 seq.) shall remain in full force and effect until they are superseded by  
18 the rules and regulations promulgated by the Commissioner of Labor.

19 c. All orders of the Attorney General, the Director of the Division  
20 of Consumer Affairs within the Department of Law and Public Safety  
21 and the Chief of the Bureau of Employment and Personnel Services in  
22 the Division of Consumer Affairs within the Department of Law and  
23 Public Safety shall be continued in full force and effect unless modified  
24 or disapproved by the Commissioner of Labor.

25

26 24. Section 14 of P.L.1981, c.1 (C.56:8-1.1) and section 2 of  
27 P.L.1989, c.331 (C.52:17B-139.4) are repealed.

28

29 25. This act shall take effect on the 180th day following enactment  
30 and the commissioner may take such actions as are necessary to  
31 implement its provisions before the effective date.

32

33

34

#### STATEMENT

35

36 This bill transfers the regulation of employment agencies, consulting  
37 firms, career consulting or outplacement organizations, prepaid  
38 computer job matching services and job listing services from the  
39 Division of Consumer Affairs in the Department of Law and Public  
40 Safety to the Department of Labor.

41 The bill provides for more comprehensive regulation of temporary  
42 help service firms by regulating them as employment agencies as was  
43 the case before 1981. In addition, employment agencies supplying  
44 temporary workers are required to provide written contracts to such  
45 workers and include in the contract: the name of the supervisor, if  
46 known; a description of the tasks to be done by the job seeker and the

1 skills and experience expected of the job seeker by the customer; the  
2 period of the assignment; the hours of work; the dress code of the  
3 customer in the workplace; any worker rights; and any known hazards  
4 at the work site to which the job seeker is being assigned. The bill  
5 also requires employment agencies to report to the Commissioner of  
6 Labor temporary employment placement statistics to determine the  
7 extent and structure of such temporary employment in New Jersey.

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11

12 Provides for regulation of employment agencies by Department of  
13 Labor and regulates temporary help service firms as employment  
14 agencies.