

ASSEMBLY, No. 3036

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

Sponsored by:

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

SYNOPSIS

Requires plaintiff to obtain affidavit of merit in malpractice suit against enrolled agent.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/16/2020)

1 AN ACT requiring an affidavit of merit in certain lawsuits and
2 amending P.L.1995, c.139.

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

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7 1. Section 1 of P.L.1995, c.139 (C.2A:53A-26) is amended to
8 read as follows:

9 1. As used in **[this act]** P.L.1995, c.139 (C.2A:53A-
10 26 et seq.), "licensed person" means any person who is licensed as:

11 a. an accountant pursuant to P.L.1997, c.259 (C.45:2B-42 et
12 seq.);

13 b. an architect pursuant to R.S.45:3-1 et seq.;

14 c. an attorney admitted to practice law in New Jersey;

15 d. a dentist pursuant to R.S.45:6-1 et seq.;

16 e. an engineer pursuant to P.L.1938, c.342 (C.45:8-27 et seq.);

17 f. a physician in the practice of medicine or surgery pursuant
18 to R.S.45:9-1 et seq.;

19 g. a podiatrist pursuant to R.S.45:5-1 et seq.;

20 h. a chiropractor pursuant to P.L.1989, c.153 (C.45:9-41.17 et
21 seq.);

22 i. a registered professional nurse pursuant to P.L.1947, c.262
23 (C.45:11-23 et seq.);

24 j. a health care facility as defined in section 2 of P.L.1971,
25 c.136 (C.26:2H-2);

26 k. a physical therapist pursuant to P.L.1983, c.296 (C.45:9-
27 37.11 et seq.);

28 l. a land surveyor pursuant to P.L.1938, c.342 (C.45:8-27 et
29 seq.);

30 m. a registered pharmacist pursuant to P.L.2003, c.280
31 (C.45:14-40 et seq.);

32 n. a veterinarian pursuant to R.S.45:16-1 et seq.;

33 o. an insurance producer pursuant to P.L.2001, c.210
34 (C.17:22A-26 et seq.);

35 p. a certified midwife, certified professional midwife, or
36 certified nurse midwife pursuant to R.S.45:10-1 et seq.; and

37 q. a licensed site remediation professional pursuant to section 7
38 of P.L.2009, c.60 (C.58:10C-7).

39 As used in P.L.1995, c.139 (C.2A:53A-26 et seq.), "licensed
40 person" shall also mean a person designated as an enrolled agent by
41 the federal Internal Revenue Service.

42 (cf: P.L.2019, c.263, s.2)

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44 2. This act shall take effect on the 30th day next following
45 enactment and apply to causes of action filed on or after that date.

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.

STATEMENT

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This bill would require a plaintiff to obtain an affidavit of merit in a malpractice suit against an enrolled agent, by adding enrolled agents to the list of professionals covered under P.L.1995, c.139 (C.2A:53A-26 et seq.).

An enrolled agent is the highest credential the IRS awards, and gives a person the ability to represent taxpayers before the IRS. Enrolled agents are required to have previous experience within the IRS, or pass a three-part test, which covers both individual and business tax returns. Additionally, the IRS requires enrolled agents to complete 72 hours of continuing education courses every three years, and to comply with IRS ethical standards.

Affidavits of merit ensure that people providing professional services are insulated from frivolous malpractice lawsuits. An affidavit of merit provides that another professional in that field has certified that there is a reasonable probability that the actions of the defending professional fell outside the bounds of the acceptable standards in that field. New Jersey law presently requires that an affidavit of merit be submitted within 60 days after the complaint is filed or the lawsuit will be dismissed. In New Jersey, attorneys, accountants, architects, and a host of other professionals are already given this protection, and this bill would extend the same to enrolled agents of the federal Internal Revenue Service.