

34:8-24

LEGISLATIVE HISTORY CHECKLIST
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(Employment agencies--exclude
no fee agencies)

NJSA: 34:8-24

LAWS OF: 1989 **CHAPTER:** 331

BILL NO: A3018

SPONSOR(S): Loveys

DATE INTRODUCED: May 2, 1988

COMMITTEE: **ASSEMBLY:** Higher Education and Regulated Professions
SENATE: ---

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FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

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P.L.1989, CHAPTER 331, approved January 12, 1990

Assembly Substitute for
1988 Assembly No. 3018

1 AN ACT regulating certain employment agencies, services and
2 firms, supplementing Title 52 of the Revised Statutes and
3 repealing P.L.1951, c.337 and section 6 of P.L.1981, c.500.

4

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

7 1. As used in this act:

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

10 (1) The terms and conditions of employment;

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

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

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

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

25 "Applicant" means any person applying for licensing or
26 registration under this act.

27 "Attorney General" means the Attorney General of this State
28 or a designee.

29 "Baby sitter" means and includes any individual under 16 years
30 of age, other than a registered nurse or a licensed nurse,
31 entrusted temporarily with the care of children during the
32 absence of their parents, guardians, or individuals standing in loco
33 parentis to them. This definition shall not include persons
34 regularly employed by agencies, or institutions operated by or
35 under the control or supervision of this State, or any of its

1 political subdivisions, nor any child care facilities operated for
2 the care of children when the facilities are similarly controlled or
3 supervised.

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

8 "Bureau" means the Bureau of Employment and Personnel
9 Services in the Division of Consumer Affairs within the
10 Department of Law and Public Safety created pursuant to section
11 2 of this act.

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

26 "Chief" means the Chief of the Bureau of Employment and
27 Personnel Services.

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

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

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

36 "Director" means the Director of the Division of Consumer
37 Affairs in the Department of Law and Public Safety, or his
38 designee.

39 "Employer" means a person seeking to obtain individuals to

1 perform services, tasks, or labor for which a salary, wage, or
2 other compensation or benefits are to be paid.

3 "Employment agency" means any person who, for a fee, charge
4 or commission:

5 (1) Procures or obtains, or offers, promises or attempts to
6 procure, obtain, or assist in procuring or obtaining employment
7 for a job seeker or employees for an employer; or

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

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

15 (4) Acts as a placement firm, career counseling service, or
16 resume service; or

17 (5) Acts as a nurses' registry.

18 The director shall have the authority to determine, from time
19 to time, that a particular employment agency or career-related
20 service or product, not otherwise expressly subject to the
21 provisions of this act, is subject to whichever requirements of
22 this act he deems appropriate.

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

35 "Job listing service" means any person required to be
36 registered under section 25 of this act who, by advertisement or
37 other means, offers to provide job seekers with a list of
38 employers, a list of job openings or a similar publication, or
39 prepares resumes or lists of applicants for distribution to

1 potential employers, where a fee or other valuable consideration
2 is exacted or attempted to be collected, either directly or
3 indirectly.

4 "Job seeker" means any individual seeking employment, career
5 guidance or counseling or employment related services or
6 products.

7 "Job seeker contingent liability" means a provision in an
8 agreement between an employment agency and a job seeker
9 whereby the job seeker may become liable, in whole or in part, to
10 pay a fee, charge or commission of any amount, directly or
11 indirectly, on account of any service rendered by the employment
12 agency.

13 "Just cause for voluntary termination of employment by a job
14 seeker" means and includes, but is not limited to, cases in which
15 material misrepresentations of the terms or conditions of
16 employment have been relied upon by a job seeker who would not
17 have accepted the employment if the grounds for termination
18 were known before acceptance of the employment.

19 "License" means a license issued by the director to any person
20 to:

- 21 (1) Carry on the business of an employment agency and;
22 (2) Perform, as an agent of the agency, any of the functions
23 related to the operation of the agency.

24 "Performing artist" means a model, musical, theatrical or
25 other entertainment performer employed or engaged individually
26 or in a group.

27 "Person" means any natural person or legal representative,
28 partnership, corporation, company, trust, business entity or
29 association, and any agent, employee, salesperson, partner,
30 officer, director, member, stockholder, associate, trustee or
31 cestuis que trustent thereof.

32 "Prepaid computer job matching service" means any person
33 required to be registered under section 25 of this act who is
34 engaged in the business of matching job seekers with employment
35 opportunities, pursuant to an arrangement under which the job
36 seeker, is required to pay a fee in advance of, or
37 contemporaneously with, the supplying of the matching, but
38 which does not otherwise involve services for the procurement of
39 employment by the person conducting the service.

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

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

7 "Temporary employment" means employment in which the
8 duration is fixed as some definite agreed period of time or by the
9 occurrence of some specified event, either of which shall be
10 clearly stated to all parties at the time of referral to the
11 employment.

12 "Temporary help service firm" means any person who operates
13 a business which consists of employing individuals directly or
14 indirectly for the purpose of assigning the employed individuals to
15 assist the firm's customers in the handling of the customers'
16 temporary, excess or special work loads, and who, in addition to
17 the payment of wages or salaries to the employed individuals,
18 pays federal social security taxes and State and federal
19 unemployment insurance; carries worker's compensation
20 insurance as required by State law; and sustains responsibility for
21 the actions of the employed individuals while they render services
22 to the firm's customers. A temporary help service firm is
23 required to comply with the provisions of P.L. 1960, c.39
24 (C.56:8-1 et seq.).

25 2. There is established a Bureau of Employment and Personnel
26 Services in the Division of Consumer Affairs in the Department
27 of Law and Public Safety. The Director of the Division of
28 Consumer Affairs shall have authority to administer the
29 provisions of this act with the oversight of the Attorney General.
30 The director shall appoint the chief of the bureau, who shall serve
31 under the direction and supervision of the director and who shall
32 receive a salary as provided by law.

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

35 a. Every applicant shall file a disclosure statement with the
36 chief stating whether or not the applicant has been convicted of
37 any crime, which for the purposes of this act shall mean a
38 violation of any of the following provisions of the "New Jersey
39 Code of Criminal Justice," Title 2C of the New Jersey Statutes

1 as amended and supplemented, or the equivalent under the laws
2 of any other jurisdiction:

3 (1) Any crime of the first degree:

4 (2) Any crime which is a second or third degree crime and is a
5 violation of chapters 20 or 21 of Title 2C of the New Jersey
6 Statutes; or

7 (3) Any other crime which is a violation of N.J.S.2C:5-1,
8 2C:5-2, 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1,
9 2C:14-2, 2C:15-1, subsections a. or b. of 2C:17-1, subsections a.
10 or b. of 2C:17-2, 2C:18-2, 2C:20-1, 2C:20-2, 2C:20-4, 2C:20-5,
11 2C:20-7, 2C:20-9, 2C:21-2 through 2C:21-4, 2C:21-6, 2C:21-7,
12 2C:21-12, 2C:21-14, 2C:21-15, or 2C:21-19, chapters 27 or 28 of
13 Title 2C of the New Jersey Statutes, N.J.S.2C:30-2, 2C:30-3,
14 2C:35-5, 2C:35-10, or 2C:37-1 through 2C:37-4.

15 b. Each disclosure statement may be reviewed and used by the
16 director as grounds for denying licensure or registration, except
17 that in cases in which the provisions of P.L.1968, c.282
18 (C.2A:168A-1 et seq.) apply, the director shall comply with the
19 requirements of that act.

20 c. An applicant who is denied licensure or registration
21 pursuant to this section shall, upon a written request transmitted
22 to the director within 30 calendar days of the denial, be afforded
23 an opportunity for a hearing in the manner provided for contested
24 cases pursuant to the "Administrative Procedure Act," P.L.1968,
25 c.410 (C.52:14B-1 et seq.).

26 d. An applicant shall have the continuing duty to provide any
27 assistance or information requested by the director, and to
28 cooperate in any inquiry, investigation, or hearing conducted by
29 the director.

30 e. If any of the information required to be included in the
31 disclosure statement changes, or if any additional information
32 should be added after the filing of the statement, the applicant
33 shall provide that information to the chief, in writing, within 30
34 calendar days of the change or addition.

35 4. a. The provisions of this act shall apply to any person
36 engaging in any of the activities regulated by this act including
37 persons whose residence or principal place of business is located
38 outside of this State.

39 b. A person shall not bring or maintain an action in any court

1 of this State for the collection of a fee, charge or commission for
2 the performance of any of the activities regulated by this act
3 without alleging and proving licensure or registration, as
4 appropriate, at the time the alleged cause of action arose.

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

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

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

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

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

- 1 **f. Any association of farmers which:**
- 2 **(1) Is duly incorporated on a nonprofit basis, under the laws of**
- 3 **New Jersey;**
- 4 **(2) Is certified to the director by the Secretary of Agriculture**
- 5 **of New Jersey as being an association of bona fide farmers of**
- 6 **New Jersey;**
- 7 **(3) Does not furnish job seekers to employers other than**
- 8 **members of their association; and**
- 9 **(4) Does not charge fees to any job seeker for being furnished**
- 10 **employment or information where employment may be procured.**

11 **g. Any person who furnishes farmers with field or harvest**
12 **workers to be employed on a seasonal basis, and charges no fee**
13 **either directly or indirectly to any worker, if the wages of the**
14 **workers are paid directly to the workers by the farmers who**
15 **employ them.**

16 **The exemptions established in this subsection and subsection f.**
17 **of this section shall not apply to any person who induces or**
18 **attempts to induce a person working under contract with an**
19 **employer to leave the employment in which he is working under**
20 **that contract before the contract is completed or the worker is**
21 **no longer responsible for its completion;**

22 **h. Any temporary help service firm which does not:**

23 **(1) Charge a fee or liquidated charge to any individual**
24 **employed by the firm or in connection with employment by the**
25 **firm;**

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

28 **(3) Knowingly send individuals it employs to, or knowingly**
29 **continue to render services to, any plant or office where a strike**
30 **or lockout is in progress for the purpose of replacing individuals**
31 **who are striking or who are or locked out. Any person conducting**
32 **a temporary help service firm which knowingly sends its**
33 **employed individuals to, or knowingly continues to render**
34 **services to, a plant or office where a strike or lockout is in**
35 **progress for the purpose of replacing those individuals who are**
36 **striking or who are locked out or, directly or indirectly counsels,**
37 **aids or abets that action shall be liable to a penalty of \$1,000.00**
38 **upon each occurrence. The penalty shall be sued for, and**
39 **received by and in the name of the Attorney General and shall be**

1 collected and enforced by summary proceedings pursuant to "the
2 penalty enforcement law" (N.J.S.2A:58-1 et seq.).

3 This exclusion shall apply to temporary help service firms
4 operated by any person who also operates an employment agency
5 as long as the businesses are independently operated as prescribed
6 by rules and regulations promulgated by the Attorney General:

7 i. Any news periodical which contains listings of or classified
8 advertisements for jobs, positions, employers, or job seekers
9 where the periodical also contains news stories of general
10 interest, articles or essays of opinion, features and other
11 advertising and which is offered to the general public for sale at
12 a nominal fee;

13 j. Any nonprofit educational, religious or charitable institution
14 which provides career counseling, job placement or other
15 employment-related services, skills evaluation, skills analysis, or
16 testing for vocational ability in order to develop a vocational
17 profile to counsel individuals and recommend placement
18 opportunities as part of the fulfillment of its educational,
19 religious or charitable purpose;

20 k. Any copying, printing, duplicating or resume preparation
21 service which in no instance charges a fee, directly or indirectly,
22 for providing any employment-related service other than copying,
23 printing, duplicating or assisting in arranging the layout of a
24 resume.

25 6. a. An application for an employment agency license
26 required by this act shall be made in writing to the chief in the
27 form prescribed by the director. The application shall state the
28 complete address, including street and number, of the building
29 and place where the agency is to be conducted and shall
30 enumerate the types of services which the applicant intends to
31 provide. The applicant shall furnish any additional information as
32 may be required by the director for the purpose of investigating
33 the character and responsibility of the applicant and its principal
34 owners or its officers and directors.

35 b. The chief shall act upon any application for a license within
36 30 days after receiving it, except that the director may extend
37 the maximum time for acting upon an application to 60 days for
38 the purpose of allowing an applicant to submit additional
39 information or if a hearing on an application is required.

1 c. The director shall provide for the issuance of, and shall
2 prescribe the form for, the licenses to be issued pursuant to this
3 act.

4 d. An employment agency license shall not be transferred by
5 the licensee to another person or amended without the written
6 consent of the director and the payment of the fee prescribed by
7 this act.

8 e. All licenses shall expire on January 1 of the year following
9 their issuance.

10 7. a. An application for an agent's license shall state the
11 name and address of the applicant and any other name used by
12 the applicant in the last six years, the name of the holder of the
13 employment agency license by whom the applicant expects to be
14 employed, and any other information concerning the applicant
15 required by the chief to assist in the determination of the
16 applicant's qualifications to provide the services for which the
17 applicant would be licensed.

18 b. An agent's license shall not be issued until the holder of the
19 employment agency license named in the application confirms to
20 the chief in writing that the applicant is or will be employed by
21 the employment agency. A license issued to an agent of an
22 employment agency shall not authorize employment by any other
23 employment agency.

24 c. An applicant for an agent's license under this act shall, by
25 means of whatever written examination is required by the
26 director, reasonably satisfy the chief that the applicant:

27 (1) Has knowledge of the provisions of this act and applicable
28 rules and regulations which is sufficient to ensure that the
29 applicant is able to comply with the applicable laws and
30 regulations; and

31 (2) Has knowledge of and experience in the fields of
32 employment specified in the application which is sufficient to
33 ensure that the applicant is able to render adequate and efficient
34 service to job seekers.

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

1 e. Upon the termination of the employment of the holder of an
2 agent's license, the holder of the employment agency license by
3 whom the holder of the agent's license has been employed shall
4 promptly notify the chief of the termination of employment. The
5 agent's license shall thereupon be canceled and the agent
6 entitled to the issuance of a new license for the unexpired term
7 of the old license without payment of an additional fee upon the
8 written request of the agent, and the holder of the employment
9 agency license who is to be named in the new license as the new
10 employer, except that the director may refuse to issue the new
11 license for any good cause shown within the provisions of this act.

12 f. For the purpose of enabling individuals to secure experience
13 and knowledge necessary to qualify them as an agent, the
14 director may waive any of the requirements of this section which
15 the director deems proper and issue a conditional license
16 authorizing the holder to perform functions requiring a license,
17 when acting under the direct supervision of a duly qualified
18 licensed agent. The conditional license shall remain in effect for
19 not more than one year.

20 g. The director shall provide for the issuance of, and shall
21 prescribe the form for, the licenses authorized to be issued
22 pursuant to this act.

23 h. The director may require licenses to be posted and
24 identification cards to be carried.

25 i. All licenses shall expire on January 1 of the year following
26 their issuance.

27 8. a. Before an employment agency license is issued, the
28 applicant shall post with the director a bond in the amount of
29 \$10,000, with a duly authorized surety company as surety, to be
30 approved by the director.

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

34 c. The bond shall be payable to the State of New Jersey and
35 upon the condition that the person applying for the license will
36 comply with this act and will pay all damages occasioned to any
37 person by reason of any misrepresentative, deceptive, or
38 misleading act or practice, or any unlawful act or omission of any
39 licensed person, agents, or employees, while acting within the

1 scope of employment, made, committed or omitted in the
2 business conducted under the license, or caused by any violation
3 of this act in carrying on the business for which the license is
4 granted

5 d. In case of a breach of the condition of any bond, application
6 may be made to the director by the person injured by the breach
7 for leave to sue upon the bond, which shall be granted by the
8 director if it is proven that the condition of the bond has been
9 breached and that the person has been injured. The person
10 obtaining leave to sue shall be furnished with a certified copy of
11 the bond and shall be authorized to institute suit on the bond in
12 the person's name for the recovery of damages sustained by the
13 breach.

14 e. If at any time, in the opinion of the director, the surety on
15 any bond shall become irresponsible, the person holding the
16 license shall, upon notice from the director, give a new bond,
17 subject to the provisions of this section. The failure to give a
18 new bond within 10 days after notice, at the direction of the
19 director, shall operate as revocation of the license, and the
20 license shall be returned to the director.

21 9. Any license issued in accordance with this act shall be
22 issued upon an annual basis. The fees therefore shall be
23 nonrefundable and shall be charged as follows:

- 24 a. Employment agency license. \$250
- 25 b. Agent's license 25
- 26 c. Transfer of agent's license 10

27 10. a. Every employment agency shall:

28 (1) Keep and make available to the chief, or a designee, during
29 regular business hours, records containing information regarding
30 services provided, products sold to job seekers or employers, and
31 fees charged or collected, and other information required by rules
32 and regulations to enable the chief to determine the status of
33 compliance with the provisions of this act;

34 (2) Require all job seekers applying for positions of trust or
35 work with private families to furnish the agency with names and
36 addresses of individuals available as character references, and
37 shall communicate, orally or in writing, with at least one of the
38 individuals given by the job seeker as a character reference. If
39 the job seeker has not furnished the name of any individuals

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

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

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

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

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

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

38 (1) File with the chief, for the chief's approval, a schedule of
39 fees proposed to be charged for any service rendered or product

1 sold to job seekers and adhere to the schedule in charging for
2 these services or products. The chief shall not approve the fee
3 schedule unless the chief is satisfied that the fee schedule is on a
4 form which makes the schedule reasonably understandable by job
5 seekers and that the fee schedule is in compliance with all other
6 provisions of this section. The schedule of fees may thereafter
7 be changed or supplemented, by filing an amended or
8 supplemental schedule with the bureau. The changes shall not
9 become effective until approval has been granted by the chief
10 and the amended or supplemental fee schedule has been posted
11 for not less than seven days in a conspicuous manner in the office
12 of the agency. It shall be unlawful for any employment agency to
13 charge, demand, collect or receive a greater fee for any service
14 rendered or product sold to a job seeker than is specified in the
15 most recent schedule filed with the bureau;

16 (2) Post the schedule of fees in a conspicuous manner in the
17 office of the agency using forms provided by the chief.

18 (3) Compute fees paid by a job seeker seeking employment on
19 the basis of permanent employment, unless the employment is
20 temporary employment. Where temporary employment merges
21 into permanent employment, or where a job seeker accepts
22 permanent employment within 30 days after the termination of
23 temporary employment, the permanent employment may be
24 considered the result of the references to the temporary position
25 and the fee may be based on the permanent employment with due
26 credit given for the payment made for the temporary
27 employment;

28 (4) Not charge to a job seeker who obtains employment and
29 who is discharged without cause or who voluntarily terminates
30 employment for just cause more than 1% of the scheduled fee for
31 each day worked. For purposes of this paragraph, the
32 employment agency shall repay to any job seeker so discharged or
33 terminated any excess of the maximum fee in accordance with
34 the fee schedule, allowing three days' time to determine that the
35 termination was not due to any fault on the part of the job
36 seeker. The employment agency may, however, by separate
37 written agreement between the employment agency and the job
38 seeker, retain the fee or any part of the fee which has been paid
39 for the job from which the job seeker has been discharged without

1 cause or terminated, if the agency furnishes the job seeker with
2 another job and allows due credit for the retained payment;

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

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

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

19 (8) Furnish each job seeker, who is sent to a prospective
20 employer, with a card or similar paper containing the nature of
21 the prospective employment, the names of the job seeker and
22 prospective employer, and the address of the employer.

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

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

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

1 agency;

2 l. Make a deceptive or misleading representation to a job
3 seeker or employer, or enter into any contract with any job
4 seeker or employer or induce or attempt to induce any job seeker
5 or employer to make any agreement, the provisions of which
6 contract or agreement, if fulfilled, violate this act;

7 m. Require that a job seeker enter into a contract with the
8 agency or any specific lender for the purpose of fulfilling a
9 financial obligation to the employment agency;

10 n. Demand, charge, collect, or receive a fee unless in
11 accordance with the terms of a written contract or agreement
12 with a job seeker;

13 o. Engage in any act or practice in violation of P.L. 1950, c.39
14 (C.56:8-1 et. seq.) and regulations promulgated thereunder.

15 12. The director may refuse to issue, and may revoke, any
16 license for failure to comply with, or violation of, the provisions
17 of this act or for any other good cause shown, within the meaning
18 and purpose of this act. A refusal or revocation shall not be
19 made except upon reasonable notice to, and opportunity to be
20 heard by, the applicant or licensee. The director may, if he finds
21 it to be in the public interest, suspend a license for any period of
22 time that he determines to be proper or assess a penalty in lieu of
23 suspension, or both, and may issue a new license, notwithstanding
24 the revocation of a prior license, provided that he finds the
25 applicant to have become entitled to the new license.

26 13. To accomplish the objectives and carry out the duties
27 prescribed by this act, the director may issue subpoenas to any
28 person, administer an oath or affirmation to any person, conduct
29 hearings in aid of any investigation or inquiry, promulgate rules
30 and regulations, and prescribe forms as may be necessary.

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

38 a. Require the person to file, on forms prescribed by him, a
39 written statement or report, under oath or otherwise, concerning

1 the facts and circumstances regarding the practice which is under
2 investigation;

3 b. Examine under oath any person in connection with the
4 practice under investigation;

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

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

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

16 a. Personal service outside this State;

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

20 c. As to any person other than an individual, in accordance
21 with the Rules Governing the Courts of the State of New Jersey
22 pertaining to service of process, provided, however, that service
23 shall be made by the director; or

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

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

30 a. Adjudging the person in contempt of court;

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

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

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

38 17. a. Whenever it appears to the director that a person has
39 engaged in, is engaging in, or is about to engage in, any practice

1 which is a violation of the provisions of this act, the director may
2 seek and obtain in a summary action in the Superior Court an
3 injunction prohibiting the person from continuing the practices or
4 engaging therein or doing any acts in furtherance thereof.

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

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

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

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

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

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

38 e. Directing the person to reimburse the job seeker for
39 transportation expenses if no employment of the kind applied for .

1 exists at the place to which the job seeker is sent and the person
2 did not have a bonafide order, either oral or written, from the
3 prospective employer.

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

17 20. In addition to any other penalty provided by law, a person
18 who violates any of the provisions of this act shall be liable for a
19 penalty of not more than \$2,000 for the first offense and not
20 more than \$5,000 for the second and each subsequent offense.

21 21. In any action or proceeding brought under this act the
22 director may recover reasonable attorneys' fees and costs of
23 investigation and suit.

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

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

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

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

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

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

22 (2) Disseminate information to a job seeker knowing or
23 recklessly disregarding information that:

24 (a) The job does not exist or the job seeker is not qualified for
25 the job;

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

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

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

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

39 f. The director, instead of revoking a registration, may

1 suspend the registration for a period of time determined to be
2 proper, or assess a penalty in lieu of suspension, or both, and may
3 issue a new registration notwithstanding the revocation of a
4 prior registration provided that the applicant is found to have
5 become entitled to the new registration.

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

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

11 i. Any person who fails to comply with the provisions of this
12 section or rules and regulations promulgated by the director shall
13 be subject to the provisions of sections 14 through 22 of this act.

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

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

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

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

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

39 f. Each registered organization shall, at the time of its initial

1 registration with the director and annually thereafter, post a
2 bond in the amount of \$10,000 with a duly authorized surety
3 company as surety, to be approved by the director. The bond
4 shall be retained by the chief until 90 days after either the
5 expiration or revocation of the registration. The director shall
6 promulgate rules and regulations setting forth the terms and
7 conditions of this bond and supply the prospective registrant firm
8 with an approved form.

9 g. Every career consulting or outplacement organization
10 registered under this section shall provide each prospective job
11 seeker desiring its services or products with a written explanation
12 of each service or product which it provides or makes available to
13 job seekers and the price for each service or product which shall
14 be made available to the job seeker at the time of the signing of
15 any contract for services or products.

16 h. Any job seeker who signs a contract with any registered
17 organization shall have the right to cancel the contract within
18 three calendar days of the time of its signing and, upon the return
19 of any materials provided to the job seeker by the registered
20 organization, shall be entitled to receive a full refund of any fee,
21 charge, or commission paid by the job seeker.

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

27 j. Every registered organization shall respond, in writing,
28 within nine calendar days of receipt of any written complaint by
29 a job seeker, stating the registered organization's position with
30 respect to the complaint. Copies of a job seeker's complaint and
31 the response shall be kept in a separate file by the registered
32 organization for a period of one year after the date of the
33 resolution of the complaint, or two years after the date of the
34 complaint, whichever is later.

35 k. If a demand for refund is denied by a registered
36 organization and if the denial is found to have been in bad faith
37 or if the registered organization fails to respond to a demand for
38 a refund, a court in an action instituted by the job seeker shall
39 award damages to the job seeker in an amount not to exceed \$200

1 in addition to actual damages sustained by the job seeker,
2 together with reasonable attorneys' fees, filing fees, and
3 reasonable costs of suit. If the registered organization refuses or
4 is unable to pay the amount awarded by the court, the award may
5 be satisfied out of the registered organization's bond.

6 l. A registered organization shall not:

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

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

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

14 m. Every contract for career consulting or outplacement
15 organizations shall be in writing. A copy of the contract shall be
16 given to the job seeker at the time the job seeker signs the
17 contract. The contract shall contain all of the following:

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

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

22 (3) A description of the services or products to be provided; a
23 statement of when those services or products are to be provided
24 and by which organizations, if other than the contracting
25 organization; the term of the contract; and refund provisions, as
26 applicable, if the described services or products are not provided
27 according to the contract.

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

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

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

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

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

3 **YOUR RIGHT TO CANCEL**

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

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

14 **CANCELLATION NOTICE**

15 I hereby cancel this contract.

16 Dated: _____

17

18

19 _____
Job seeker's Signature

20

21

22

23 _____
Job seeker's Name (print)

24

25

26

27

Address"

28

29 The requirement that the contract include this statement
30 regarding the right to cancel shall not apply when time is of the
31 essence and the services or products must be performed or
32 provided within three calendar days of the date that the contract
33 is entered into pursuant to the request of the job seeker, if the
34 job seeker furnishes the registered organization with a separate
35 dated and signed personal statement in the job seeker's own
36 handwriting, describing the situation requiring the immediate
37 provision of services or products and expressly acknowledging and
38 waiving the right to cancel the contract within three calendar
39 days.

1 (7) Any further information specified in regulations adopted by
2 the director.

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

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

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

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

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

20 (1) Make, or cause to be made, publish or cause to be
21 published, any false, misleading, or deceptive advertisement or
22 representations concerning the services or products that the
23 registrant provides to job seekers.

24 (2) Disseminate information to a job seeker knowing or
25 recklessly disregarding information that:

26 (a) The job does not exist or the job seeker is not qualified for
27 the job;

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

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

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

36 q. The director may refuse to issue, and may revoke, any
37 registration for any failure to comply with, or violation of, the
38 provisions of this section or for any other good cause shown,
39 within the meaning and purpose of this section. A refusal or

1 revocation shall not be made except upon reasonable notice to,
2 and opportunity to be heard by, the applicant or registrant. The
3 director, instead of revoking any registration, may suspend the
4 registration for a period of time as shall be determined to be
5 appropriate, or assess a penalty in lieu of suspension, or both, and
6 may issue a new registration notwithstanding the revocation of a
7 prior registration provided that the applicant is found to have
8 become entitled to the new registration.

9 r. A registered organization may engage in activities requiring
10 registration under section 23 and 25 of this act if it complies with
11 the requirement of those sections.

12 s. Any person who fails to comply with the provisions of this
13 section or rules and regulations promulgated by the director shall
14 be subject to sections 14 through 22 of this act.

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

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

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

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

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

1 f. Each service applicant shall at the time of its initial
2 registration with the director and annually thereafter, post a
3 bond in the amount of \$10,000 with a duly authorized surety
4 company as surety, to be approved by the director. The bond
5 shall be retained by the chief until 90 days after either the
6 expiration or revocation of the registration. The director shall
7 promulgate rules and regulations setting forth the terms and
8 conditions of this bond and supply the service applicant firm with
9 an approved form.

10 g. Prior to the acceptance of a fee from a job seeker, a
11 registered service shall provide the job seeker with a written
12 contract which shall include the following:

13 (1) The name of the registered service and the addresses and
14 telephone number of each primary or other location of the
15 registered service providing the listing to the job seeker.

16 (2) Acknowledgement of receipt of the registered service's
17 fee schedule.

18 (3) A description of the service or product to be performed or
19 product to be provided by the registered service, including
20 significant conditions, restrictions, and limitations where
21 applicable.

22 (4) A description of the job seeker's specifications for the
23 employment opportunity, including, but not limited to, the
24 following:

25 (a) Type of job.

26 (b) Interests of job seeker.

27 (c) Qualifications of job seeker.

28 (d) Salary, benefits, and other conditions of employment.

29 (e) Location of job.

30 (5) The contract expiration date, which shall not be later than
31 90 days from the date of execution of the contract.

32 (6) A clause setting forth the right to a full refund of the fee
33 paid in advance.

34 (7) The signature of the registered service's agent.

35 (8) The following statement, printed on the face of the
36 contract in type no smaller than 10-point bold-face type:

37 "This service is registered with the Bureau of Employment and
38 Personnel Services of the State of New Jersey, (current address
39 of bureau). Inquiries concerning your contract may be sent to

1 this address."

2 (9) At the bottom of the contract a notice to the effect that
3 the contract is the property of the job seeker and shall not be
4 taken from the job seeker.

5 h. Every contract or receipt shall be made and numbered
6 consecutively in original and duplicate, both to be signed by the
7 job seeker and the service's agent. The original shall be given to
8 the job seeker and the duplicate shall be kept on file at the
9 service's primary location.

10 i. The form of contract proposed to be used by a registrant to
11 effect compliance with this section shall be filed with the bureau
12 prior to use. Any modification of a form previously filed with the
13 bureau, including a change in the name or a primary location of
14 the registered service, shall also be filed prior to use.

15 j. A registered service shall refund in full the advance fee paid
16 by a job seeker if the service does not, within five calendar days
17 after execution of the contract, supply at least three employment
18 opportunities then available to the job seeker and meeting the
19 specifications of the contract. A registered service will be
20 deemed to have supplied information meeting the specifications
21 of the job seeker if the information supplied meets the contract
22 specifications with reference to:

23 (1) Name of employer and type of job;

24 (2) Interests of job seeker;

25 (3) Qualifications of job seeker;

26 (4) Salary, benefits, and other conditions of employment;

27 (5) Location of job; and

28 (6) Any other specification expressly set forth in the contract.

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

34 k. A registered service shall refund any amount in excess of a
35 \$25 service charge to the job seeker if the job seeker does not
36 obtain a job, provided that the job seeker demands a return of
37 that part of the fee within 10 calendar days after the expiration
38 of the contract.

39 l. If employment, once obtained, lasts less than 90 days, the

1 fee paid shall be refunded as specified in subsection b. of section
2 10 of this act.

3 m. Each contract shall also contain refund provisions,
4 approved by the bureau, which shall, unless different language is
5 approved in writing by the bureau prior to use, read as follows:
6

6

7

"RIGHT TO REFUND

8 If within five calendar days after payment of any advance fee,
9 the registrant has not supplied the job seeker with at least three
10 available employment opportunities meeting the specifications of
11 the contract as to (1) name of the employer and type of job; (2)
12 interest of job seeker; (3) qualifications of job seeker; (4) salary,
13 benefits, and other conditions of employment; (5) location of job;
14 and (6) any other specification expressly set forth in the contract,
15 the full amount of the fee paid shall be refunded to the job seeker
16 within 10 calendar days after the expiration of the five-day
17 period."

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

23 n. Every registered service shall respond, in writing, within
24 nine calendar days of receipt of any written complaint by a job
25 seeker, stating the registered service's position with respect to
26 that complaint. A copy of a job seeker's complaint and the
27 response shall be kept in a separate file by the registered service
28 for a period of one year after the date of the resolution of the
29 complaint, or two years after the date of the complaint,
30 whichever is later.

31 o. If a demand for refund is denied by a registered service, and
32 if the denial is found to have been in bad faith or if the registered
33 service fails to respond to a demand for a refund, a court in an
34 action instituted by the job seeker shall award damages to the job
35 seeker in an amount not to exceed \$200.00 in addition to actual
36 damages sustained by the job seeker, together with reasonable
37 attorneys' fees, filing fees, and reasonable costs of suit. If the
38 registered service refuses or is unable to pay the amount awarded
39 by the court, the award may be satisfied out of the registered

1 service's bond.

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

5 (1) Make, or cause to be made, publish or cause to be
6 published, any false, misleading, or deceptive advertisement or
7 representations concerning the services or products that the
8 registrant provides to job seekers; or

9 (2) Disseminate information to a job seeker knowing or
10 recklessly disregarding information that:

11 (a) The job does not exist or the job seeker is not qualified for
12 the job;

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

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

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

20 q. The director may refuse to issue, and may revoke, any
21 registration for any failure to comply with, or any violation of,
22 the provisions of this section or for any other good cause shown,
23 within the meaning and purpose of this section. A refusal shall
24 not be made except upon reasonable notice to, and opportunity to
25 be heard by, the applicant or registrant as the case may be. The
26 director instead of revoking any registration may suspend the
27 registration for a period of time as determined to be proper, or
28 assess a penalty in lieu of suspension, or both; and may issue a
29 new registration notwithstanding the revocation of a prior
30 registration provided that the applicant is found to have become
31 entitled to the new registration.

32 r. Any person who fails to comply with the provisions of this
33 section or rules and regulations promulgated by the director shall
34 be subject to the provisions of sections 14 through 22 of this act.

35 26. All the functions, powers and duties of the Private
36 Employment Agency Section in the Division of Consumer Affairs
37 in the Department of Law and Public Safety are hereby
38 transferred to the Bureau of Employment and Personnel Services
39 in the Division of Consumer Affairs. That transfer shall be made

1 in accordance with the provisions of the "State Agency Transfer
2 Act," P.L.1971, c.375 (C.52:14D-1 et. seq.).

3 27. Nothing in this act shall affect the validity of any license
4 previously issued to any person by the Private Employment
5 Agency Section in the Division of Consumer Affairs and Office of
6 the Attorney General in the Department of Law and Public
7 Safety, but each person holding a previously issued license shall,
8 in all other respects, be subject to the provisions of this act.

9 28. P.L.1951, c.337 (C.34:8-24 et seq.) and section 6 of
10 P.L.1981, c.500 (C.34:8-26.1) are repealed.

11 29. This act shall take effect immediately.

12

13

STATEMENT

14

15 This substitute provides for the regulation of certain private
16 agencies which provide employment services. The substitute
17 establishes a Bureau of Employment and Personnel Services in the
18 Division of Consumer Affairs in the Department of Law and
19 Public Safety. The private agencies subject to the provisions of
20 the substitute are private employment agencies, which would be
21 required to be licensed, along with their agents, by the bureau,
22 and consulting firms, career placement, outplacement, and
23 prepaid computer job matching services which would be required
24 to register with the bureau.

25 Most of the substitute's provisions regarding the regulation of
26 private employment agencies are similar to the provisions of
27 P.L.1951, c.337 (C.34:8-24 et seq.), which is repealed by the
28 substitute. That act, however, differs from the substitute
29 principally because the act has no provisions concerning
30 consulting firms, career placement, outplacement, and prepaid
31 computer job matching services.

32 The substitute prohibits the regulated agencies from engaging
33 in a variety of deceptive or otherwise unfair practices when
34 dealing with both job seekers and employers. The Director of the
35 Division of Consumer Affairs is given a number of powers to
36 investigate violations of the provisions of the act and penalize
37 offenders.

38

39

LABOR AND EMPLOYMENT

40

Consumer Affairs

41

42

Regulates employment agencies and related services and firms.

ASSEMBLY, No. 3018
STATE OF NEW JERSEY

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INTRODUCED MAY 2, 1988

By Assemblyman LOVEYS

1 AN ACT to revise the definition of employment agency and
amending P.L. 1951, c. 337.

3

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

1. Section 1 of P.L. 1951, c. 337 (C. 34:8-24) is amended to
7 read as follows:

1. As used in this act:

9 "Employment agency" means and includes the business of
procuring or offering to procure help or employment, or the
11 giving of information as to where help or employment may be
procured, whether the business is conducted in a building or on
13 the street or elsewhere; or the business of keeping an
employment bureau, nurses' registry, or booking agency for
15 procuring engagements for performing artists, or other agency or
office for procuring work or employment for persons, where a fee
17 or privilege is exacted, charged or received directly or indirectly
for procuring or assisting or promising to procure employment,
19 work, engagement or a situation of any kind, or for procuring or
providing help or promising to provide help for any person,
21 [whether such fee is collected from the applicant for employment
or the applicant for help, or] whether the application for help or
23 employment is made directly or indirectly by either the
prospective employer or the prospective employee or by any
25 person acting to secure either help or employment for the
prospective employer or the prospective employee and when the
27 fee is collected from the applicant for employment.

"Employment agency" shall not include any temporary help
29 service firm.

"Fee" means and includes any payment of money, or promises
31 to pay money, or the excess of money received by a person
furnishing employment or employees over what he has paid for
33 transportation, transfer of baggage or lodging for an

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.

1 applicant for employment. It shall also mean and include the
2 difference between the amount of money received by any person
3 who either furnishes employees or performers for any
4 entertainment, exhibition or performance, or who furnishes baby
5 sitters for any occasion, and the amount paid by such person or
6 persons to the employees, performers or baby sitters.

7 "Privilege" means and includes the furnishing of food,
8 supplies, tools or shelter to contract laborers, commonly known
9 as commissary privileges. The furnishing of food, supplies, tools
10 or shelter to laborers if performed or paid for within this State,
11 both in connection with the promise or offer to provide help or
12 employment regardless of where such offer is made or where the
13 help is obtained, shall be considered proof of violation of this act.

14 "Attorney General" means the Attorney General of this State
15 or his duly authorized representative.

16 "Contract laborers" means unskilled or skilled workers, of
17 either sex, furnished either directly or indirectly by any person,
18 engaged directly or indirectly in the business of furnishing
19 employees, to employers by whom they are to be employed in
20 groups of five or more persons.

21 "Employment agency owner's license" means a license
22 authorizing the person to whom it is issued to own an employment
23 agency and to have such employment agency operated by a person
24 or persons duly authorized to perform the functions for which the
25 agency is licensed.

26 "Employment agency operator's license" means a license
27 issued to an individual person who is the holder of an employment
28 agency owner's license or to an employee or agent of the holder
29 of an employment agency owner's license. When held by the
30 employee or agent of the holder of an employment agency
31 owner's license such employment agency operator's license shall
32 authorize the holder to perform such functions as he may be duly
33 authorized and empowered by his employer to perform and for
34 the performance of which an employment agency operator's
35 license is required. No person, other than the holder of an
36 employment agency operator's license, shall furnish help or
37 employment, or furnish information as to where help or
38 employment may be obtained, or manage, operate or carry
39 business of an employment agency.

1 "Representative" means any individual person holding an
employment agency operator's license duly authorized and
3 empowered by the owner of the employment agency owner's
license, by whom he is employed, to solicit business and otherwise
5 act as the duly authorized representative of his employer to the
extent of such authorization and subject to the provisions of this
7 act.

"Employee" means an applicant for a job, or an engagement to
9 work, who is furnished to an employer, or prospective employer,
by an employment agency. This definition shall not apply to
11 employees of the employment agency.

"Employer" means an applicant for help for whom an
13 employee is to be supplied by an employment agency.

"Rules and regulations" means such rules and regulations as
15 shall have been promulgated by the Attorney General and are not
inconsistent with the provisions of this act.

17 "Booking agency" means the business of conducting any agency
which procures, offers, promises, or attempts to procure
19 employment for performing artists, and which collects a fee for
providing such employment.

21 "Performing artists" means musical, theatrical or vaudeville
performers employed or engaged individually or as a group.

23 "Baby sitters" means and includes any individual person under
21 years of age, of either sex, other than a registered nurse or a
25 licensed nurse, entrusted temporarily with the care of children
during the absence of their parents, guardians, or persons
27 standing in loco parentis to them. This definition shall not
include persons regularly employed by agencies, or institutions
29 operated by or under the control or supervision of this State, or
any of its political subdivisions, nor any nurseries operated for
31 the care of children when such nurseries are similarly controlled
or supervised.

33 "Temporary help service firm" means and includes any person,
firm or entity, who operates a business which consists of
35 employing individuals directly for the purpose of assigning his
employees to assist his customers in the handling of his
37 customers' temporary, excess or special work loads, and who in
addition to the payment of wages or salaries to his employees,
39 pays Federal social security taxes and State and Federal

1 unemployment insurance, carries workmen's compensation
insurance as required by State law, and sustains responsibility for
3 the actions of his employees while rendering services to his
customers.

5 (cf: P.L. 1981, c. 500, s. 1)

2. This act shall take effect immediately.

7

9

STATEMENT

11 This bill excludes from the definition of an employment agency
under P.L. 1951, c. 337 those agencies which charge no fee to the
13 applicant for employment. This change in definition will exclude
from the requirement for licensure as an employment agency
15 firms which are paid entirely by their corporate clients.

17

REGULATED PROFESSIONS

19

Labor and Employment

21 Excludes from the definition of employment agency any agency
which charges no fee to the applicant for employment.

ASSEMBLY HIGHER EDUCATION AND REGULATED
PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3018

STATE OF NEW JERSEY

DATED: JANUARY 23, 1989

The Assembly Higher Education and Regulated Professions Committee favorably reports Assembly Bill No. 3018.

This bill excludes from the definition of an employment agency under P.L. 1951, c.337 those agencies which charge no fee to the applicant for employment. This change in definition will exclude from the requirement for licensure and regulation as an employment agency by the Attorney General those agencies which are paid entirely by the employer.

BILLS

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JANUARY 12, 1990

A-474, sponsored by Assemblyman Harold Colburn, R-Burlington, to require a general acute care hospital to continue to provide services to members of an HMO for a period of four months beyond the expiration of a contract between the hospital and the HMO.

A-2147, sponsored by Assemblyman Gary Stuhltrager, R-Salem, to provide for the voluntary withholding from pensions of the New Jersey Gross Income Tax.

A-3018, sponsored by Assemblyman Robert Martin, R-Morris, to update and revise law regulating private employment agencies, booking agencies, career placement agencies and other employment related services.

A-4655, sponsored by Assemblyman Patrick Roma, R-Bergen, to permit a police officer to display an Honor Legion medal on his uniform.

A-4283, sponsored by Assemblyman Anthony Impreveduto, D-Hudson, to prohibit the disclosure of the identity of the child victim of a sexual assault or abuse.

A-5074, sponsored by Assemblymen Joseph Doria, D-Hudson, and Anthony Impreveduto, D-Bergen. The bill increases the membership of the New Jersey Board of Accountancy.

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