

2010 -- S 2339

LC01524

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO SPORTS, RACING AND ATHLETICS -- BOARDS AND COMMISSIONS

Introduced By: Senator David E. Bates

Date Introduced: February 11, 2010

Referred To: Senate Constitutional & Regulatory Issues

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 41-5.1 of the General Laws entitled "Commission on Professional
2 Boxing, Wrestling, and Kick Boxing" is hereby repealed in its entirety.

3 ~~CHAPTER 41-5.1~~

4 ~~Commission on Professional Boxing, Wrestling, and Kick Boxing~~

5 ~~**41-5.1-1. Composition of commission -- Expenses.** --- There shall be a commission on~~
6 ~~professional boxing, wrestling, and kick boxing, consisting of five (5) qualified electors, three (3)~~
7 ~~of whom shall be appointed by the speaker of the house, not more than two (2) from the same~~
8 ~~political party, one by the president of the senate, and one by the governor. All members shall~~
9 ~~serve at the pleasure of the appointing authority. The commission shall serve without~~
10 ~~compensation, but shall be allowed their travel and necessary expenses in accordance with the~~
11 ~~rates from time to time established by the legislative department in its rules and regulations and~~
12 ~~may expend such sums of money as may be appropriated from time to time by the general~~
13 ~~assembly.~~

14 ~~**41-5.1-2. Duties of commission.** --- It shall be the duty of the commission on boxing,~~
15 ~~wrestling, and kick boxing to study professional boxing, wrestling, and kick boxing and make~~
16 ~~recommendations for the regulation thereof to the division of racing and athletics.~~

17 ~~**41-5.1-3. Record -- Reports.** --- The commission on professional boxing, wrestling, and~~
18 ~~kick boxing shall keep a record of all its transactions and shall, at the January session in each~~
19 ~~year, and may at any other time make a report of its doings and of its recommendations to the~~

1 ~~general assembly. The reports shall state in detail the nature of and extent of the commission's~~
2 ~~investigations of the previous year and an outline of its proposed goals and projects for the~~
3 ~~forthcoming year.~~

4 SECTION 2. Chapter 41-2 of the General Laws entitled "Racing and Athletic Hearing
5 Board" is hereby repealed in its entirety.

6 CHAPTER 41-2

7 Racing and Athletic Hearing Board

8 ~~**41-2-1. Board created -- Appointment and removal of members.** -- (a) Within the~~
9 ~~executive department there shall be a racing and athletics hearing board. The hearing board shall~~
10 ~~consist of three (3) members, not more than two (2) of whom shall be members of the same~~
11 ~~political party, who shall be appointed by the governor as provided in this section. In the month~~
12 ~~of February in each odd numbered year, the governor shall appoint one member of the board to~~
13 ~~hold office until the first day of March in the sixth year after his or her appointment and until his~~
14 ~~or her successor is appointed and qualified to succeed the member whose term will next expire.~~

15 ~~(b) Any vacancy which may occur in the board shall be filled by appointment by the~~
16 ~~governor for the remainder of the unexpired term. A member of the board may be removed by the~~
17 ~~governor only for cause, after being given a copy of charges against him or her and an~~
18 ~~opportunity to be heard publicly on the charges before the governor. A copy of the charges and a~~
19 ~~transcript of the record of the hearing shall be filed with the secretary of state.~~

20 ~~**41-2-2. Chairperson of board -- Compensation of members.** -- The members of the~~
21 ~~board shall elect one of their number as chairperson upon the appointment of any new member~~
22 ~~for a full term and whenever the office may become vacant. The members of the board shall not~~
23 ~~be compensated for their services on the board.~~

24 ~~**41-2-3. Right of appeal from division.** -- The division of racing and athletics may in the~~
25 ~~first instance make such decisions and issue such orders as may to it seem proper in the~~
26 ~~administration of the provisions of laws that shall be from time to time assigned to its direction by~~
27 ~~the governor. Any person or persons aggrieved by a decision or order of the division of racing~~
28 ~~and athletics shall have the right to appeal to the racing and athletics hearing board by filing an~~
29 ~~appeal in writing with the board within seven (7) days from the service of the order or decision~~
30 ~~appealed from.~~

31 ~~**41-2-4. Hearing and decision by board.** -- Upon an appeal being taken from any~~
32 ~~decision or order, the racing and athletics hearing board shall hold and conduct hearings on the~~
33 ~~appeal to be governed by rules to be adopted by the board, and in the hearings the board shall not~~
34 ~~be bound by technical rules of evidence. The board shall sit as an impartial, independent body in~~

1 order to make decisions affecting the public interest and private rights. It shall hear all appeals de
2 novo as to both the law and the facts and its decisions shall be based upon the law and upon the
3 evidence presented to it by the division of racing and athletics and by the parties in interest. The
4 concurrence of a majority of the board shall be sufficient for any decision.

5 ~~**41-2-5. Subpoena powers of board -- Rules and regulations.**~~ -- (a) The members of the
6 racing and athletics hearing board are hereby severally authorized and empowered to administer
7 oaths; and the board, in all cases of every nature pending before it, is hereby authorized and
8 empowered to summon and examine witnesses and to compel the production and examination of
9 papers, books, accounts, documents, records, certificates, and other legal evidence that may be
10 necessary or proper for the determination and decision of any question before or the discharge of
11 any duty required by law of the board.

12 ~~(b) All subpoenas and subpoenas duces tecum shall be signed by the chairperson or, in~~
13 ~~the absence or disqualification of the chairperson, by any other member thereof, and shall be~~
14 ~~served as subpoenas are now served in civil cases in the superior court; and witnesses so~~
15 ~~subpoenaed shall be entitled to the same fees for attendance and travel as are now provided for~~
16 ~~witnesses in civil cases in the superior court. If any person fails to obey the command of any~~
17 ~~subpoena, without reasonable cause, or if a person in attendance before the board shall, without~~
18 ~~reasonable cause, refuse to be sworn, or to be examined, or to answer a legal and pertinent~~
19 ~~question, the board may apply to any justice of the superior court, upon proof by affidavit of the~~
20 ~~fact, for a rule or order returnable in not less than two (2) or more than five (5) days, directing the~~
21 ~~person to show cause why he or she should not be adjudged in contempt.~~

22 ~~(c) Upon the return of an order, the justice before whom the matter is brought for a~~
23 ~~hearing shall examine under oath the person and the person shall be given an opportunity to be~~
24 ~~heard, and if the justice shall determine that the person has refused without reasonable cause or~~
25 ~~legal excuse to be examined, or to answer a legal and pertinent question, or to produce books,~~
26 ~~accounts, papers, records, and documents, material to the issue, which he or she was ordered to~~
27 ~~bring or produce, he or she may forthwith commit the person to the adult correctional institutions,~~
28 ~~there to remain until he or she submits to do the act which he or she was so required to do, or is~~
29 ~~discharged according to law.~~

30 ~~(d) The board shall have power to adopt reasonable rules and regulations governing the~~
31 ~~procedure to be followed in any matter that may come before it for hearing.~~

32 ~~**41-2-6. Judicial review by superior court.**~~ -- The division of racing and athletics or any
33 party in interest, if aggrieved by a decision of the board shall be entitled to judicial review as
34 provided by chapter 35 of title 42.

1 ~~41-2-7. Exclusive remedy. -- Notwithstanding the provisions of section 42-20-13, or~~
2 ~~other provisions of laws, the procedures established by sections 41-2-3, 41-2-4, and 41-2-6 shall~~
3 ~~constitute the exclusive remedies for persons aggrieved by any order or decision of the division of~~
4 ~~racing and athletics or of the racing and athletics hearing board.~~

5 SECTION 3. Section 19-1-1 of the General Laws in Chapter 19-1 entitled "Definitions
6 and Establishment of Financial Institutions" is hereby amended to read as follows:

7 **19-1-1. Definitions.** -- Unless otherwise specified, the following terms shall have the
8 following meanings throughout this title:

9 (1) "Agreement to form" means the agreement to form a financial institution or the
10 agreement to form a credit union, as applicable, pursuant to this title, and includes, for financial
11 institutions organized before December 31, 1995, the articles of incorporation or the agreement of
12 association of the financial institution, where applicable.

13 (2) ~~"Board of bank incorporation" means the board of bank incorporation as constituted~~
14 ~~under this title or the predecessor of the board of bank incorporation.~~

15 ~~(3)~~ (3) "Branch" means any office or place of business, other than the main office or
16 customer-bank-communication-terminal outlets as provided for in this title, at which deposits are
17 received, or checks paid or money lent, or at which any trust powers are exercised. Any financial
18 institution which had, on or before June 30, 2003, established an office or place of business, other
19 than its main office, at which trust powers are exercised, shall not be required to obtain the
20 approval of the director or the director's designee pursuant to section 19-2-11 of the general laws
21 in chapter 2 of title 19 for any such offices established as of that date.

22 ~~(4)~~ (3) "Credit union" means a credit union duly organized under the laws of this state.

23 ~~(5)~~ (4) "Director" means the director of the department of business regulation.

24 ~~(6)~~ (5) "Division of banking" means the division within the department of business
25 regulation responsible for the supervision and examination of regulated institutions and/or
26 licensees under chapter 14 of this title.

27 ~~(7)~~ (6) "Federal credit union" means a credit union duly organized under the laws of the
28 United States.

29 ~~(8)~~ (7) "Financial institution" means any entity, other than a credit union, duly organized
30 under the laws of this state which has the statutory authority to accept money on deposit pursuant
31 to title 19, including an entity which is prohibited from accepting deposits by its own by-laws or
32 agreement to form; the term includes, but is not limited to banks, trust companies, savings banks,
33 loan and investment banks and savings and loan associations.

34 ~~(9)~~ (8) "Main office" means, in the case of financial institutions or credit unions, the

1 location stated in the agreement to form, as amended, and, otherwise, the location recognized by
2 the institution's primary banking regulator as its main office.

3 ~~(10)~~ (9) "Person" means individuals, partnerships, corporations, limited liability
4 companies or any other entity however organized.

5 ~~(11)~~ (10) "Regulated institution" means any financial institution, credit union or other
6 insured-deposit-taking institution which is authorized to do business in this state including one
7 authorized by operation of an interstate banking statute which allowed its original entry.

8 ~~(12)~~ (11) "Retail installment contract" means any security agreement negotiated or
9 executed in this state or under the laws of this state including, but not limited to, any agreement in
10 the nature of a mortgage, conditional sale contract, or any other agreement whether or not
11 evidenced by any written instrument to pay the retail purchase price of goods, or any part thereof,
12 in installments over any period of time and pursuant to which any security interest is retained or
13 taken by the retail seller for the payment of the purchase price, or any part thereof, of the retail
14 installment contract.

15 ~~(13)~~ (12) "Retail seller" means any person who sells or contracts to sell any goods under
16 a retail installment contract to a retail buyer.

17 ~~(14)~~ (13) "Superintendent" means the associate director and superintendent of banking in
18 the department of business regulation.

19 ~~(15)~~ (14) "Unimpaired capital" means the sum of all capital and allowance accounts
20 minus estimated losses on assets, calculated in accordance with generally accepted accounting
21 principles.

22 SECTION 4. Section 19-1-2 of the General Laws in Chapter 19-1 entitled "Definitions
23 and Establishment of Financial Institutions" is hereby repealed.

24 ~~**19-1-2. Board of bank incorporation.** -- (a) (i) There is hereby authorized, created and~~
25 ~~established within the department of business regulation a five (5) member board of bank~~
26 ~~incorporation, (hereinafter the "board"), all of whom shall be voting members and serve without~~
27 ~~compensation. Three (3) who serve as ex officio shall be the director of the department of~~
28 ~~business regulation (hereinafter the "director") or his or her designee, the general treasurer or his~~
29 ~~or her designee, and the attorney general or his or her designee. The other two (2) members of the~~
30 ~~board shall be members of the general public qualified by training or experience in the fields of~~
31 ~~finance or banking, appointed by the governor with the advice and consent of the senate. In~~
32 ~~appointing public members pursuant to this section, the governor shall solicit and give due~~
33 ~~consideration of the recommendations of the general treasurer with respect thereto. The designee~~
34 ~~of a member serving as ex officio shall be a subordinate from within the department of the ex-~~

1 ~~officio member and shall represent him or her at all meetings of the board. No one shall be~~
2 ~~eligible for public appointment unless he or she is a resident of this state. The board shall elect a~~
3 ~~chair and may elect from among its own members such other officers as they deem necessary.~~

4 ~~(ii) The board is a public policy appellate board established to consider appeals from a~~
5 ~~decision of the director or the director's designee concerning major banking matters which affect~~
6 ~~the citizens and tax base of the state and to exercise the powers and perform the duties conferred~~
7 ~~or imposed upon it by this title.~~

8 ~~(iii) Newly appointed and qualified public members and designees of ex officio~~
9 ~~members shall, within six (6) months of their qualification or designation, attend a training course~~
10 ~~that shall be developed with board approval and conducted by the director or his or her designee~~
11 ~~and shall include instruction in the provisions of chapters 19-1, 42-46, 36-14, and 38-2 of Rhode~~
12 ~~Island general laws; and the board's rules and regulations. The director of the department of~~
13 ~~administration shall, within ninety (90) days of the effective date of this act, prepare and~~
14 ~~disseminate training materials relating to the provisions of chapters 42-46, 36-14 and 38-2.~~

15 ~~(iv) Public members of the board shall be removable by the appointing authority for~~
16 ~~cause only, and removal solely for partisan or personal reasons unrelated to capacity or fitness for~~
17 ~~the office shall be unlawful.~~

18 ~~(v) Three (3) members of the board of bank incorporation shall constitute a quorum for~~
19 ~~the transaction of business. A majority vote of those present shall be required for action. No~~
20 ~~vacancy in the membership of the board shall impair the right of a quorum to exercise all of the~~
21 ~~rights and perform all of the duties of the board. Any vacancy which may occur in the board shall~~
22 ~~be filled by the governor with the advice and consent of the senate, for the remainder of the~~
23 ~~unexpired term in the same manner as the member's predecessor as prescribed in this section.~~

24 ~~(vi) Those members of the board as of the effective date of this act who are members of~~
25 ~~the general assembly shall cease to be members of the board on the effective date of this act, and~~
26 ~~the governor shall thereupon nominate one new member who shall serve an initial term of three~~
27 ~~(3) years and one new member who shall serve an initial term of four (4) years. Thereafter, all~~
28 ~~appointed members of the board shall be appointed to terms of four (4) years and be eligible for~~
29 ~~reappointment.~~

30 ~~(b) (i) The board of bank incorporation may adopt, and amend from time to time, rules~~
31 ~~and regulations for the orderly conduct of its affairs and for the administration of its duties~~
32 ~~pursuant to this title. The board of bank incorporation shall collect a filing fee with respect to~~
33 ~~applications submitted to it. All fees pursuant to this section shall be paid to the director, to and~~
34 ~~for the use of the board of bank incorporation. The fees to be charged for each type of application~~

1 ~~shall be established annually at the board of bank incorporation's first public hearing. The board~~
2 ~~of bank incorporation shall publish notice of its proposed fee structure at least once a week for~~
3 ~~three (3) successive weeks in a newspaper of general circulation.~~

4 ~~(ii) Within ninety (90) days after the end of each fiscal year during which the board has~~
5 ~~conducted business, the board shall approve and submit an annual report to the governor, the~~
6 ~~speaker of the house of representatives, the president of the senate, and the secretary of state of its~~
7 ~~activities during that fiscal year. The report shall provide: an operating statement summarizing~~
8 ~~meetings or hearings held, meeting minutes if requested, subjects addressed, decisions rendered,~~
9 ~~rules or regulations promulgated, studies conducted, policies and plans developed, approved, or~~
10 ~~modified, and programs administered or initiated; a consolidated financial statement of all funds~~
11 ~~received and expended including the source of the funds, a listing of any staff supported by these~~
12 ~~funds, and a summary of any clerical, administrative or technical support received; a summary of~~
13 ~~performance during the previous fiscal year including accomplishments, shortcomings and~~
14 ~~remedies; a synopsis of hearings, complaints, suspensions, or other legal matters related to the~~
15 ~~authority of the board; a summary of any training courses held pursuant to subsection 19-1-~~
16 ~~2(a)(iv); a briefing on anticipated activities in the upcoming fiscal year; and findings and~~
17 ~~recommendations for improvements. The report shall be posted electronically on the general~~
18 ~~assembly and the secretary of state's websites as prescribed in section 42-20-8.2 of the Rhode~~
19 ~~Island general laws. The director of the department of administration shall be responsible for the~~
20 ~~enforcement of this provision.~~

21 SECTION 5. Section 19-1-3 of the General Laws in Chapter 19-1 entitled "Definitions
22 and Establishment of Financial Institutions" is hereby amended to read as follows:

23 **19-1-3. Applications -- General.** -- (a) ~~The director or the director's designee shall~~
24 ~~assume and exercise all powers and duties of the board of bank incorporation relative to~~
25 ~~applications filed by regulated institutions with the exceptions set forth in this title. All~~
26 applications filed with the division of banking shall be acted upon by the director or the director's
27 designee, in writing.

28 (b) The director or the director's designee shall cause notice of applications filed to be
29 published for three (3) consecutive weeks in a newspaper of general circulation which shall
30 include a provision allowing for a public comment period. During this period, the application
31 shall be open for public inspection at the division of banking. If, at the end of the public comment
32 period, there are no objectors to the application, the director or the director's designee may
33 approve or deny the application. If there are any objectors, the director or the director's designee
34 shall hold a public hearing to take testimony, under oath, and after considering this testimony,

1 shall approve or deny the application. Any applicant aggrieved by any order regarding an
2 application may appeal pursuant to the provisions of chapter 35 of title 42.

3 (c) The superintendent shall collect a filing fee with respect to applications submitted to
4 the division of banking for consideration. All fees pursuant to this section shall be paid to the
5 director for the use of the state. The fees to be charged for each type of application shall be
6 established by the division of banking. The division of banking shall publish a notice, in a
7 newspaper of general circulation, of a proposed fee structure, receive comments on the proposal
8 and establish the fees at a public hearing, the date of which shall be contained in the notice of
9 publication.

10 (d) The superintendent is hereby authorized to promulgate rules and regulations for the
11 implementation of this section, including, but not limited to, the establishment of specific time
12 periods within which a decision for the various types of applications must be rendered by the
13 division of banking.

14 (e) Any party adversely affected by a decision of the director or the director's designee
15 concerning an agreement to form or an application filed for interstate mergers, interstate
16 acquisitions or interstate branches may appeal the director's or the director's designee's decision
17 by filing, within thirty (30) days after entry of the decision, an application of appeal ~~with the~~
18 ~~board of bank incorporation within ten (10) days after the issuance of the decision to the superior~~
19 court pursuant to chapter 35 of title 42. The ~~board of bank incorporation superior court~~ shall
20 thereupon review the decision considering the public interest, the public convenience and
21 advantage, the effect on the tax base of the state and the effect on the citizens of the state and
22 issue its own decision which shall govern.

23 (f) ~~Anyone adversely affected by a decision of the board of bank incorporation may~~
24 ~~appeal the decision by filing an appeal with the superior court within thirty (30) days after entry~~
25 ~~of decision~~. A copy of the notice of appeal shall be forthwith served upon the ~~legal counsel/clerk~~
26 ~~of the board of bank incorporation~~ director or the director's designee. The ~~board of bank~~
27 ~~incorporation~~ director or the director's designee shall certify and file in the court a copy of the
28 record upon which the decision was entered within thirty (30) days after receipt of the notice of
29 appeal.

30 SECTION 6. Sections 19-4-9 and 19-4-12 of the General Laws in Chapter 19-4 entitled
31 "Regulatory Oversight" are hereby amended to read as follows:

32 **19-4-9. Reports to general assembly.** -- The director shall upon written request of either
33 the speaker of the house or the senate president report annually to the general assembly the
34 condition of all financial institutions and credit unions regulated by him or her, with any

1 recommendations as he or she may deem proper.

2 **19-4-12. Order to cease unlawful or unsafe practices -- Impairment of capital --**

3 **Appeal.** -- (a) Whenever it appears to the director or the director's designee that a regulated
4 institution has violated its agreement to form, or any law or regulation, or is conducting its
5 business in an unauthorized or unsafe manner, or the regulated institution has been notified by its
6 federal deposit insurer of its intent to terminate deposit insurance, the director or the director's
7 designee may exercise any or all of the following powers:

8 (1) Restrict the withdrawal of deposits when he or she finds the restriction necessary for
9 the protection of depositors;

10 (2) Order any person to cease violating any provision of the banking laws of this state or
11 any rule or regulation issued thereunder, or cease engaging in any unsafe or unsound or deceptive
12 banking or credit union practices;

13 (3) Order that capital be restored, to the extent that the capital of the financial institution
14 or credit union has been impaired;

15 (4) Suspend or remove any director, committee member, officer, or employee who
16 becomes ineligible to hold his or her position or who, after receipt of an order to cease under this
17 chapter, violates the banking laws of this state or a rule, regulation, or order issued thereunder, or
18 who is reckless or incompetent in the conduct of the financial institution's or credit union's
19 business. Each suspension or removal order shall specify the grounds ~~therefor~~ therefore, and a
20 copy of the order shall be sent to the financial institution or credit union concerned.

21 (b) Any action taken pursuant to subsection (a) may be taken in the director's or the
22 director's designee's discretion before or after affording the regulated institution and/or affected
23 individuals an opportunity for hearing. When an action is not preceded by an opportunity for
24 hearing, such an opportunity must be afforded to the regulated institution and/or affected
25 individuals within a reasonable time after the action; provided further, that a request for hearing
26 subsequent to an action by the director or the director's designee shall not act to stay the action of
27 the director or the director's designee pending the outcome of the hearing, although the director or
28 the director's designee may, in his or her discretion, grant a stay.

29 (c) Whenever the regulated institution fails to comply with an order of the director or the
30 director's designee, or file required reports, or fails to pay any final judgment recovered against it
31 in any court of this state within sixty (60) days after the rendition of the order, or pay fees or
32 forfeitures, or do any other act required under this title, the superintendent may give notice to ~~the~~
33 ~~board of bank incorporation and~~ the regulated institution of those failures and ~~may request that~~
34 notify the regulated institution that the regulated institution's right to do business may be

1 suspended. The ~~board of bank incorporation~~ director or the director's designee shall upon request
2 for a hearing on the notice hold a hearing within a reasonable time after issuance of the notice, at
3 which time the superintendent and the regulated institution shall have the opportunity to present
4 evidence as to whether the regulated institution's right to do business should or should not be
5 suspended. After the hearing, if it appears to the ~~board of bank incorporation~~ director or the
6 director's designee that the regulated institution is in an insolvent condition, or is violating its
7 agreement to form or any law or regulation under this title, or that it is conducting its business in
8 an unsafe, unauthorized, deceptive, or dishonest manner, the ~~board of bank incorporation~~ director
9 or the director's designee may give notice to the regulated institution that it is no longer
10 authorized to do business. Any of these regulated institutions not in an insolvent condition may be
11 reauthorized by the ~~board of bank incorporation~~ director or the director's designee to resume its
12 business upon complying with the terms and conditions set forth by the ~~board of bank~~
13 ~~incorporation~~ director or the director's designee pursuant to the laws or regulations under this
14 title. Any regulated institution aggrieved by an order of the ~~board of bank incorporation~~ director
15 or the director's designee may appeal that order to the superior court pursuant to chapter 35 of
16 title 42.

17 SECTION 7. This act shall take effect upon passage.

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LC01524
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO SPORTS, RACING AND ATHLETICS -- BOARDS AND COMMISSIONS

1 This act would repeal the commission on professional boxing, wrestling and kick boxing;
2 would repeal the racing and athletics hearing board; and would repeal the board of bank
3 incorporation as an appellate board and would amend applicable provisions of law to allow for
4 appeals through superior court.

5 This act would take effect upon passage.

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