

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: S3/5/01 H4/5/01

A Bill

SENATE BILL 394

5 By: Senators D. Malone, Cash, Riggs
6 By: Representatives Judy, Agee, Cleveland, Allison, J. Elliott, *Bookout*
7

For An Act To Be Entitled

8
9
10 THE UNI FORM ATHLETE AGENTS ACT.

Subtitle

11
12
13
14 THE UNI FORM ATHLETE AGENTS ACT.

15
16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18
19 SECTION 1. Short title.

20 This act may be cited as the Uni form Athlete Agents Act.
21

22 SECTION 2. Defi ni ti ons.

23 In this act:

24 (1) "Agency contract" means an agreement in which a student-athlete
25 authorizes a person to negotiate or solicit on behalf of the student-athlete a
26 professional -sports-services contract or an endorsement contract.

27 (2) "Athlete agent" means an individual who enters into an agency
28 contract with a student-athlete or, directly or indirectly, recruits or
29 solicits a student-athlete to enter into an agency contract. The term includes
30 an individual who represents to the public that the individual is an athlete
31 agent. The term does not include a spouse, parent, sibling, grandparent, or
32 guardian of the student-athlete or an individual acting solely on behalf of a
33 professional sports team or professional sports organization.

34 (3) "Athletic director" means an individual responsible for
35 administering the overall athletic program of an educational institution or,
36 if an educational institution has separately administered athletic programs

1 for male students and female students, the athletic program for males or the
2 athletic program for females, as appropriate.

3 (4) "Contact" means a communication, direct or indirect, between an
4 athlete agent and a student-athlete, to recruit or solicit the student-athlete
5 to enter into an agency contract.

6 (5) "Endorsement contract" means an agreement under which a student-
7 athlete is employed or receives consideration to use on behalf of the other
8 party any value that the student-athlete may have because of publicity,
9 reputation, following, or fame obtained because of athletic ability or
10 performance.

11 (6) "Intercollegiate sport" means a sport played at the collegiate level
12 for which eligibility requirements for participation by a student-athlete are
13 established by a national association for the promotion or regulation of
14 collegiate athletics.

15 (7) "Person" means an individual, corporation, business trust, estate,
16 trust, partnership, limited liability company, association, joint venture,
17 government; governmental subdivision, agency, or instrumentality; public
18 corporation, or any other legal or commercial entity.

19 (8) "Professional -sports-services contract" means an agreement under
20 which an individual is employed, or agrees to render services, as a player on
21 a professional sports team, with a professional sports organization, or as a
22 professional athlete.

23 (9) "Record" means information that is inscribed on a tangible medium or
24 that is stored in an electronic or other medium and is retrievable in
25 perceivable form.

26 (10) "Registration" means registration as an athlete agent pursuant to
27 this act.

28 (11) "State" means a state of the United States, the District of
29 Columbia, Puerto Rico, the United States Virgin Islands, or any territory or
30 insular possession subject to the jurisdiction of the United States.

31 (12) "Student-athlete" means an individual who engages in, is eligible
32 to engage in, or may be eligible in the future to engage in, any
33 intercollegiate sport. If an individual is permanently ineligible to
34 participate in a particular intercollegiate sport, the individual is not a
35 student-athlete for purposes of that sport.

36

1 SECTION 3. Service of process - Subpoenas.

2 By acting as an athlete agent in this state, a nonresident individual
3 appoints the Secretary of State as the individual's agent for service of
4 process in any civil action in this state related to the individual's acting
5 as an athlete agent in this state.

6
7 SECTION 4. Athlete agents – Registration required – Void contracts.

8 (a) Except as otherwise provided in subsection (b), an individual may
9 not act as an athlete agent in this state without holding a certificate of
10 registration under Section 6.

11 (b) Before being issued a certificate of registration, an individual may
12 act as an athlete agent in this state for all purposes except signing an
13 agency contract, if:

14 (1) A student-athlete or another person acting on behalf of the
15 student-athlete initiates communication with the individual; and

16 (2) Within seven (7) days after an initial act as an athlete
17 agent, the individual submits an application for registration as an athlete
18 agent in this state.

19 (c) An agency contract resulting from conduct in violation of this
20 section is void and the athlete agent shall return any consideration received
21 under the contract.

22
23 SECTION 5. Registration as athlete agent – Form - Requirements.

24 (a) An applicant for registration shall submit an application for
25 registration to the Secretary of State in a form prescribed by the Secretary
26 of State. An application filed under this section is a public record. The
27 application must be in the name of an individual and, except as otherwise
28 provided in subsection (b), signed or otherwise authenticated by the applicant
29 under penalty of perjury and state or contain:

30 (1) The name of the applicant and the address of the applicant's
31 principal place of business;

32 (2) The name of the applicant's business or employer, if
33 applicable;

34 (3) Any business or occupation engaged in by the applicant for
35 the five (5) years next preceding the date of submission of the application;

36 (4) A description of the applicant's:

1 (A) Formal training as an athlete agent;
2 (B) Practical experience as an athlete agent; and
3 (C) Educational background relating to the applicant's
4 activities as an athlete agent;

5 (5) The names and addresses of three (3) individuals not related
6 to the applicant who are willing to serve as references;

7 (6) The name, sport, and last known team for each individual for
8 whom the applicant acted as an athlete agent during the five (5) years next
9 preceding the date of submission of the application;

10 (7) The names and addresses of all persons who are:

11 (A) With respect to the athlete agent's business if it is
12 not a corporation, the partners, members, officers, managers, associates, or
13 profit-sharers of the business; and

14 (B) With respect to a corporation employing the athlete
15 agent, the officers, directors, and any shareholder of the corporation having
16 an interest of five percent (5%) or greater;

17 (8) Whether the applicant or any person named pursuant to
18 paragraph (7) has been convicted of a crime that, if committed in this state,
19 would be a crime involving moral turpitude or a felony, and identify the
20 crime;

21 (9) Whether there has been any administrative or judicial
22 determination that the applicant or any person named pursuant to paragraph (7)
23 has made a false, misleading, deceptive, or fraudulent representation;

24 (10) Any instance in which the conduct of the applicant or any
25 person named pursuant to paragraph (7) resulted in the imposition of a
26 sanction, suspension, or declaration of ineligibility to participate in an
27 interscholastic or intercollegiate athletic event on a student-athlete or
28 educational institution;

29 (11) Any sanction, suspension, or disciplinary action taken
30 against the applicant or any person named pursuant to paragraph (7) arising
31 out of occupational or professional conduct; and

32 (12) Whether there has been any denial of an application for,
33 suspension or revocation of, or refusal to renew, the registration or
34 licensure of the applicant or any person named pursuant to paragraph (7) as an
35 athlete agent in any state.

36 (b) An individual who has submitted an application for, and holds a

1 certificate of, registration or licensure as an athlete agent in another
2 state, may submit a copy of the application and certificate in lieu of
3 submitting an application in the form prescribed pursuant to subsection (a).
4 The Secretary of State shall accept the application and the certificate from
5 the other state as an application for registration in this state if the
6 application to the other state:

7 (1) Was submitted in the other state within six (6) months next
8 preceding the submission of the application in this state and the applicant
9 certifies that the information contained in the application is current;

10 (2) Contains information substantially similar to or more
11 comprehensive than that required in an application submitted in this state;
12 and

13 (3) Was signed by the applicant under penalty of perjury.

14
15 SECTION 6. Certificate of registration - Issuance or denial - Renewal.

16 (a) The Secretary of State shall issue a certificate of registration to
17 an individual who complies with Section 5(a) or whose application has been
18 accepted under Section 5(b).

19 (b) An athlete agent may apply to renew a registration by submitting an
20 application for renewal in a form prescribed by the Secretary of State. The
21 application for renewal must be signed by the applicant under penalty of
22 perjury and must contain current information on all matters required in an
23 original registration.

24 (c) An individual who has submitted an application for renewal of
25 registration or licensure in another state, in lieu of submitting an
26 application for renewal in the form prescribed pursuant to subsection (d), may
27 file a copy of the application for renewal and a valid certificate of
28 registration or licensure from the other state. The Secretary of State shall
29 accept the application for renewal from the other state as an application for
30 renewal in this state if the application to the other state:

31 (1) Was submitted in the other state within six (6) months next
32 preceding the filing in this state and the applicant certifies the information
33 contained in the application for renewal is current;

34 (2) Contains information substantially similar to or more
35 comprehensive than that required in an application for renewal submitted in
36 this state; and

1 (3) Was signed by the applicant under penalty of perjury.
2 (d) A certificate of registration or a renewal of a registration is
3 valid for two (2) years.

4
5 SECTION 7. Registration and renewal fees.

6 (a) An application for registration or renewal of registration must be
7 accompanied by a fee in the following amount:

8 (1) Five hundred dollars (\$500) for an initial application for
9 registration;

10 (2) One hundred dollars (\$100) for an application for registration
11 based upon a certificate of registration or licensure issued by another
12 state;

13 (3) Five hundred dollars (\$500) for an application for renewal of
14 registration; or

15 (4) One hundred dollars (\$100) for an application for renewal of
16 registration based upon an application for renewal of registration or
17 licensure submitted in another state.

18 (b) Fees received under this chapter by the Secretary of State shall be
19 deposited in the State Treasury to the credit of the General Revenue Fund.

20
21 SECTION 8. Required form of contract.

22 (a) An agency contract must be in a record, signed or otherwise
23 authenticated by the parties.

24 (b) An agency contract must state or contain:

25 (1) The amount and method of calculating the consideration to be
26 paid by the student-athlete for services to be provided by the athlete agent
27 under the contract and any other consideration the athlete agent has received
28 or will receive from any other source for entering into the contract or for
29 providing the services;

30 (2) The name of any person not listed in the application for
31 registration or renewal of registration who will be compensated because the
32 student-athlete signed the agency contract;

33 (3) A description of any expenses that the student-athlete agrees
34 to reimburse;

35 (4) A description of the services to be provided to the student-
36 athlete;

1 (5) The duration of the contract; and

2 (6) The date of execution.

3 (c) An agency contract must contain, in close proximity to the signature
4 of the student-athlete, a conspicuous notice in boldface type in capital
5 letters stating:

6 WARNING TO STUDENT-ATHLETE

7 IF YOU SIGN THIS CONTRACT:

8 (1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE IN
9 YOUR SPORT;

10 (2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING
11 INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC
12 DIRECTOR; AND

13 (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT.
14 CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

15 (d) An agency contract that does not conform to this section is voidable
16 by the student-athlete. If a student-athlete voids an agency contract, the
17 student-athlete is not required to pay any consideration under the contract or
18 to return any consideration received from the athlete agent to induce the
19 student-athlete to enter into the contract.

20 (e) The athlete agent shall give a record of the signed or otherwise
21 authenticated agency contract to the student-athlete at the time of execution.

22

23 SECTION 9. Notice to educational institution.

24 (a) Within seventy-two (72) hours after entering into an agency contract
25 or before the next scheduled athletic event in which the student-athlete may
26 participate, whichever occurs first, the athlete agent shall give notice in a
27 record of the existence of the contract to the athletic director of the
28 educational institution at which the student-athlete is enrolled or the
29 athlete agent has reasonable grounds to believe the student-athlete intends to
30 enroll.

31 (b) Within seventy-two (72) hours after entering into an agency contract
32 or before the next athletic event in which the student-athlete may
33 participate, whichever occurs first, the student-athlete shall inform the
34 athletic director of the educational institution at which the student-athlete
35 is enrolled that he or she has entered into an agency contract.

36

1 SECTION 10. Student-athlete's right to cancel.

2 (a) A student-athlete may cancel an agency contract by giving notice of
3 the cancellation to the athlete agent in a record within fourteen (14) days
4 after the contract is signed.

5 (b) A student-athlete may not waive the right to cancel an agency
6 contract.

7 (c) If a student-athlete cancels an agency contract, the student-athlete
8 is not required to pay any consideration under the contract or to return any
9 consideration received from the athlete agent to induce the student-athlete to
10 enter into the contract.

11
12 SECTION 11. Required records.

13 (a) An athlete agent shall retain the following records for a period of
14 five (5) years:

15 (1) The name and address of each individual represented by the
16 athlete agent;

17 (2) Any agency contract entered into by the athlete agent; and

18 (3) Any direct costs incurred by the athlete agent in the
19 recruitment or solicitation of a student-athlete to enter into an agency
20 contract.

21 (b) Records required by subsection (a) to be retained are open to *public*
22 inspection during normal business hours.

23
24 SECTION 12. Prohibited conduct.

25 (a) An athlete agent, with the intent to induce a student-athlete to
26 enter into an agency contract, may not:

27 (1) Give any materially false or misleading information or make a
28 materially false promise or representation;

29 (2) Furnish anything of value to a student-athlete before the
30 student-athlete enters into the agency contract; or

31 (3) Furnish anything of value to any individual other than the
32 student-athlete or another registered athlete agent.

33 (b) An athlete agent may not intentionally:

34 (1) Initiate contact with a student-athlete unless registered
35 under this act;

36 (2) Refuse or fail to retain or permit inspection of the records

1 required to be retained by Section 11;

2 (3) Fail to register when required by Section 4;

3 (4) Provide materially false or misleading information in an
4 application for registration or renewal of registration;

5 (5) Predate or postdate an agency contract; or

6 (6) Fail to notify a student-athlete before the student-athlete
7 signs or otherwise authenticates an agency contract for a particular sport
8 that the signing or authentication may make the student-athlete ineligible to
9 participate as a student-athlete in that sport.

10
11 SECTION 13. Criminal penalties.

12 An athlete agent who violates Section 12 is guilty of a Class A
13 misdeemeanor.

14
15 SECTION 14. Civil remedies.

16 (a) With respect to any athlete agent who has had either a criminal or
17 administrative penalty imposed against him or her under the Uniform Athlete
18 Agent's Act, as adopted by the State of Arkansas or any other state, in two
19 (2) or more prior instances:

20 (1) An educational institution has a right of action against an
21 athlete agent or a former student-athlete for damages caused by a violation of
22 this act. In an action under this section, the court may award to the
23 prevailing party costs and reasonable attorney's fees;

24 (2) Damages of an educational institution under subdivision (a)(1)
25 include losses and expenses incurred because, as a result of the conduct of an
26 athlete agent or former student-athlete, the educational institution was
27 injured by a violation of this act or was penalized, disqualified, or
28 suspended from participation in athletics by a national association for the
29 promotion and regulation of athletics, by an athletic conference, or by
30 reasonable self-imposed disciplinary action taken to mitigate sanctions likely
31 to be imposed by such an organization;

32 (3) A right of action under this section does not accrue until the
33 educational institution discovers or by the exercise of reasonable diligence
34 would have discovered the violation by the athlete agent or former student-
35 athlete; and

36 (4) Any liability of the athlete agent or the former student-

1 athlete under this section is several and not joint.

2 (b) This act does not restrict rights, remedies, or defenses of any
3 person under law or equity.

4
5 SECTION 15. Administrative penalty.

6 The Attorney General may seek a civil penalty, in any court of competent
7 jurisdiction, against an athlete agent not to exceed fifty thousand dollars
8 (\$50,000) for a violation of this act.

9
10 SECTION 16. Uniformity of application and construction.

11 In applying and construing this Uniform Act, consideration must be given
12 to the need to promote uniformity of the law with respect to its subject
13 matter among states that enact it.

14
15 SECTION 17. Electronic signatures in global and national commerce act.

16 The provisions of this act governing the legal effect, validity, or
17 enforceability of electronic records or signatures, and of contracts formed or
18 performed with the use of such records or signatures conform to the
19 requirements of Section 102 of the Electronic Signatures in Global and
20 National Commerce Act, Pub. L. No. 106-229, 114 Stat. 464 (2000), and
21 supersede, modify, and limit the Electronic Signatures in Global and National
22 Commerce Act.

23
24 SECTION 18. Arkansas Code 17-16-101 through 17-16-104 is hereby
25 repealed.

26 ~~17-16-101. Definitions.~~

27 ~~(a) In this chapter:~~

28 ~~(1) "Agent contract" means any contract or agreement under which~~
29 ~~an athlete authorizes an athlete agent to negotiate or solicit on behalf of~~
30 ~~the athlete with one (1) or more professional sports teams;~~

31 ~~(2) "Athlete" means an individual who resides or is located in~~
32 ~~this state and who desires to enter into a professional sport services~~
33 ~~contract;~~

34 ~~(3) "Athlete agent" means a person who for compensation directly~~
35 ~~or indirectly recruits or solicits an athlete to enter into an agent contract~~
36 ~~or professional sport services contract with that person or who for a fee~~

1 ~~procures, offers, promises, or attempts to obtain employment for an athlete~~
 2 ~~with a professional sports team. Provided, however, that "athlete agent" does~~
 3 ~~not include any employee or other representative of a professional team;—~~

4 ~~(4) "Contact" means communication between an athlete agent and a~~
 5 ~~student athlete, by whatever means, directly or indirectly, for the purpose of~~
 6 ~~entering or soliciting entry into an agent contract;—~~

7 ~~(5) "Financial services" means the counseling on or the making or~~
 8 ~~execution of investment and other financial decisions by the athlete agent on~~
 9 ~~behalf of the student athlete;—~~

10 ~~(6) "Participation" means practicing, competing, or otherwise~~
 11 ~~representing a college or university in intercollegiate athletics;—~~

12 ~~(7) "Person" means an individual, company, corporation,~~
 13 ~~association, partnership, or other legal entity;—~~

14 ~~(8) "Professional sport services contract" means any contract or~~
 15 ~~agreement pursuant to which a person is employed or agrees to perform services~~
 16 ~~as a player on a professional sports team or as a professional athlete; and—~~

17 ~~(9) "Student athlete" means any student who:—~~

18 ~~(A) Resides in Arkansas and has informed in writing a~~
 19 ~~college or university of his or her intent to participate in that school's~~
 20 ~~intercollegiate athletics, or who does participate in that school's~~
 21 ~~intercollegiate athletics and is eligible to do so; or—~~

22 ~~(B) Does not reside in Arkansas, but has informed in~~
 23 ~~writing a college or university in Arkansas of the student's intent to~~
 24 ~~participate in that school's intercollegiate athletics and is eligible to do~~
 25 ~~so;—~~

26 ~~(b) For purposes of this chapter, execution by an athlete of a personal~~
 27 ~~service contract with the owner or prospective owner of a professional sports~~
 28 ~~team for the purpose of future athletic services is equivalent to employment~~
 29 ~~with a professional sports team.—~~

30
 31 ~~17-16-102. Remedies for violation.—~~

32 ~~(a) Any athlete agent who violates § 17-16-201(a) may be subject to:—~~

33 ~~(1) Forfeiture of any right of repayment for anything of value~~
 34 ~~either received by an athlete as an inducement to enter into any agent~~
 35 ~~contract received by an athlete before completion of the athlete's last~~
 36 ~~intercollegiate contest;—~~

1 ~~(2) A refund of any consideration paid to the athlete agent on an~~
2 ~~athlete's behalf.~~

3 ~~(b) Any agent contract that is negotiated by an athlete agent who has~~
4 ~~failed to comply with this chapter is void.~~

5 ~~(c) No person shall conduct business as an athlete agent, unless the~~
6 ~~person holds an active license pursuant to this chapter. If a person violates~~
7 ~~this provision, he shall be guilty of a Class D felony.~~

8 ~~(d) The office of the Attorney General shall have the authority to file~~
9 ~~suit against anyone who engages in any prohibited acts, in order to revoke the~~
10 ~~person's license.~~

11 ~~(e)(1) A college or university may sue for damages, as well as court~~
12 ~~costs and reasonable attorney's fees as provided by this section, any person~~
13 ~~who violates this chapter.~~

14 ~~(2) A college or university may seek equitable relief to prevent~~
15 ~~or minimize harm arising from acts or omissions which are or would be a~~
16 ~~violation of this chapter.~~

17 ~~(3) For purposes of this section, a college or university is~~
18 ~~damaged if:~~

19 ~~(A) Because of activities of the person, the college or~~
20 ~~university is penalized or is disqualified or suspended from participation in~~
21 ~~intercollegiate athletics by the National Collegiate Athletic Association, the~~
22 ~~National Association of Intercollegiate Athletics, or an intercollegiate~~
23 ~~athletic conference; and~~

24 ~~(B) Because of that penalty, disqualification, or~~
25 ~~suspension, the college or university:~~

26 ~~(i) Loses revenue from the televising of an athletic~~
27 ~~contest;~~

28 ~~(ii) Loses the right to grant an athletic~~
29 ~~scholarship;~~

30 ~~(iii) Loses the right to recruit an athlete;~~

31 ~~(iv) Is prohibited from participating in postseason~~
32 ~~athletic competition; or~~

33 ~~(v) Forfeits an athletic contest.~~

34
35 ~~17-16-103. Rules.~~

36 ~~The Secretary of State may adopt rules necessary to carry out this~~

1 ~~chapter in accordance with the Arkansas Administrative Procedure Act, § 25-15-~~
2 ~~201 et seq.—~~

3
4 ~~17-16-104. Disposition of fees.—~~

5 ~~Fees and other funds received under this chapter by the Secretary of~~
6 ~~State shall be deposited in the State Treasury to the credit of the General-~~
7 ~~Revenue Fund.—~~

8
9 SECTION 19. Arkansas Code 17-16-201 through 17-16-207 is hereby
10 repealed.

11 ~~17-16-201. Registration requirements—Renewal.—~~

12 ~~(a) An athlete agent must register with the Secretary of State before~~
13 ~~the athlete agent may contact an athlete, either directly or indirectly, while~~
14 ~~the athlete resides or is located in this state.—~~

15 ~~(b)(1) An applicant for registration as an athlete agent must submit a~~
16 ~~written application for registration to the Secretary of State on a form~~
17 ~~prescribed by the Secretary of State.—~~

18 ~~(2) An applicant for registration must be at least 21 years of~~
19 ~~age and pay five hundred dollars (\$500) for an application and license fee at~~
20 ~~the time the application is submitted.—~~

21 ~~(3) The applicant must provide the following:—~~

22 ~~(A) The name of the applicant and the address of the~~
23 ~~applicant's principal place of business;—~~

24 ~~(B) The business or occupation engaged in by the applicant~~
25 ~~for the five (5) years immediately preceding the date of application;—~~

26 ~~(C) A description of the applicant's formal training,~~
27 ~~practical experience, and educational background relating to the applicant's~~
28 ~~professional activities as an athlete agent;—~~

29 ~~(D) The names and addresses of five (5) professional~~
30 ~~references;—~~

31 ~~(E) The names and addresses of all persons, except bona~~
32 ~~fide employees on stated salaries, that are financially interested as~~
33 ~~partners, associates, or profit sharers in the operation of the business of~~
34 ~~the athlete agent; and—~~

35 ~~(F) Provide a statement under oath that the applicant has~~
36 ~~not pled guilty or nolo contendere to or been found guilty of a crime other~~

1 than within the last five (5) years involving perjury, the taking of a false
2 oath, embezzlement, misappropriation of funds, fraudulent conversion, forgery,
3 mail fraud, wire fraud, extortion, theft, or substantially equivalent
4 activities.—

5 (c) If the applicant is a corporation, the information required by
6 subsection (b) of this section must be provided by each officer of the
7 corporation. If the applicant is an association or partnership, the
8 information must be provided by each associate or partner.—

9 (d) A certificate of registration issued under this chapter is valid
10 for one (1) year from the date of issuance.—

11 (e) A registered athlete agent may renew the registration by filing a
12 renewal application in the form prescribed by the Secretary of State,
13 accompanied by a one hundred dollar (\$100) renewal fee. The renewal
14 application must include the information prescribed by the Secretary of State,
15 which shall include:—

16 (1) The names and addresses of all athletes for whom the athlete
17 agent is providing professional services for compensation at the time of the
18 renewal; and—

19 (2) The names and addresses of all athletes not currently
20 represented by the athlete agent for whom the athlete agent has performed
21 professional services for compensation during the three (3) years preceding
22 the date of the application.—

23 (f) When an application for registration or renewal is made and the
24 registration process has not been completed, the Secretary of State may issue
25 a temporary or provisional registration certificate that is valid for no more
26 than ninety (90) days.—

27 (g) An applicant shall be denied a license as an athlete agent or
28 renewal of his license if the applicant has pled guilty or nolo contendere to
29 or been found guilty of a crime within the last five (5) years involving
30 perjury, the taking of a false oath, embezzlement, misappropriation of funds,
31 fraudulent conversion, forgery, mail fraud, wire fraud, extortion, theft, or
32 substantially equivalent activities.—

33 History. Acts 1989, No. 544, § 2; 1999, No. 1186, §§ 3, 4.

34
35 17-16-202. Bond required.—

36 (a) Before the issuance or renewal of a certificate of registration, an

1 ~~athlete agent that provides agent contract services with an athlete must~~
2 ~~deposit with the Secretary of State either:—~~

3 ~~(1) A surety bond in the sum of one hundred thousand dollars~~
4 ~~(\$100,000); or—~~

5 ~~(2) A fully collateralized corporate bond, in the sum of one~~
6 ~~hundred thousand dollars (\$100,000), payable to the state and conditioned that~~
7 ~~the person applying for the registration will comply with this chapter, will~~
8 ~~pay all amounts due any individual or group of individuals when the person or~~
9 ~~the person's representative or agent has received those amounts, and will pay~~
10 ~~all damages caused to any athlete by reason of the intentional~~
11 ~~misrepresentation, fraud, deceit, or any unlawful or negligent act or omission~~
12 ~~by the registered athlete agent or the agent's representative or employee. The~~
13 ~~athlete agent shall maintain the bond until two (2) years after the date on~~
14 ~~which the athlete agent ceases to engage in the provision of financial~~
15 ~~services for an athlete.—~~

16 ~~(b) This subsection does not limit the recovery of damages to the~~
17 ~~amount of the surety bond.—~~

18
19 ~~17-16-203. Filing of new bond.—~~

20 ~~If an athlete agent that has entered into an agent's contract with an~~
21 ~~athlete fails to file a new bond with the Secretary of State not later than~~
22 ~~the thirtieth day after date of receipt of a notice of cancellation issued by~~
23 ~~the surety of the bond, the Secretary of State shall suspend the certificate~~
24 ~~of registration issued to that athlete agent under the bond until the athlete~~
25 ~~agent files a new surety bond with the Secretary of State.—~~

26
27 ~~17-16-204. Notice of written contract between agent and student athlete.—~~

28 ~~(a) An athlete agent and a student athlete who enter into an agent~~
29 ~~contract must provide written notice of the contract to the athletic director~~
30 ~~of the college or university in which the student athlete is enrolled. The~~
31 ~~athlete agent and the student athlete must give the notice before the~~
32 ~~contracting student athlete practices or participates in any intercollegiate~~
33 ~~athletic event or within seventy two (72) hours after entering into the~~
34 ~~contract, whichever comes first.—~~

35 ~~(b) A written contract between a student athlete and an athlete agent~~
36 ~~must state the fees and percentages to be paid by the student athlete to the~~

1 athlete agent and must have a notice printed near the student athlete's
 2 signature containing the following statement in 10 point bold face type:—
 3 —“WARNING TO THE STUDENT ATHLETE: WHEN YOU SIGN THIS CONTRACT, YOU WILL
 4 LIKELY IMMEDIATELY LOSE YOUR ELIGIBILITY TO COMPETE IN INTERCOLLEGIATE
 5 ATHLETICS. YOU MUST GIVE WRITTEN NOTICE THAT YOU HAVE ENTERED INTO THIS
 6 CONTRACT TO THE ATHLETIC DIRECTOR OF YOUR COLLEGE OR UNIVERSITY WITHIN 72
 7 HOURS AFTER ENTERING INTO THIS CONTRACT OR PRIOR TO PARTICIPATING IN
 8 INTERCOLLEGIATE ATHLETICS, WHICHEVER COMES FIRST. DO NOT SIGN THIS CONTRACT
 9 UNTIL YOU HAVE READ IT AND FILLED IN ANY BLANK SPACES. YOU MAY CANCEL THIS
 10 CONTRACT BY NOTIFYING THE ATHLETE AGENT IN WRITING OF YOUR DESIRE TO CANCEL,
 11 NOT LATER THAN THE FIFTEENTH (15th) DAY AFTER THE DATE YOU SIGN THIS CONTRACT.
 12 HOWEVER, EVEN IF YOU CANCEL THIS CONTRACT, THE NCAA, NAIA, OR CONFERENCE TO
 13 WHICH YOUR COLLEGE OR UNIVERSITY BELONGS MAY NOT RESTORE YOUR ELIGIBILITY TO
 14 PARTICIPATE IN INTERCOLLEGIATE ATHLETICS.”—

15 (c) An agent contract which does not meet the requirements of this
 16 section is void and unenforceable.—

17 (d) Within fifteen (15) days after the date the athletic director of
 18 the college or university of the student athlete receives the notice required
 19 by this section that a student athlete has entered into an athlete agent
 20 contract, the student athlete shall have the right to rescind the contract
 21 with the athlete agent by giving written notice to the athlete agent of the
 22 student athlete's recission of the contract. The student athlete may not under
 23 any circumstances waive the student athlete's right to rescind the agent
 24 contract.—

25 (e) A postdated agent contract is void and unenforceable.—

26 (f) An athlete agent shall not enter into an agent contract that
 27 purports to or takes effect at a future time after the student athlete no
 28 longer has remaining eligibility to participate in intercollegiate athletics.—
 29 Such a contract is void and unenforceable.—

30 (g) An agent contract between a student athlete and a person not
 31 licensed under this chapter is void and unenforceable.—

32 17-16-205. Prohibited acts.—

33 (a) The following acts shall be prohibited:—

34 (1) Failure to have the appropriate language as set forth in §
 35 17-16-204(b) within an executed contract;—
 36

1 ~~(2) Failure to account for or to pay within thirty (30) days~~
2 ~~assets belonging to another which have come into the control of the athlete~~
3 ~~agent in the course of conducting business as an athlete agent;—~~

4 ~~(3) Commingling money or property of another person with the~~
5 ~~athlete agent's money or property. Every athlete agent shall maintain a~~
6 ~~separate account in a financial institution in which shall be deposited all~~
7 ~~proceeds received for another person through the athlete agent;—~~

8 ~~(4) Offering anything of value to any person to induce a student~~
9 ~~athlete to enter into an agent contract by which the athlete agent will~~
10 ~~represent the student athlete. However, negotiations regarding the athlete~~
11 ~~agent's fees shall not be considered an inducement;—~~

12 ~~(5) Knowingly providing financial benefits from the licensee's~~
13 ~~conduct of business as an athlete agent to another athlete agent whose license~~
14 ~~to practice as an athlete agent is suspended or has been permanently revoked;—~~

15 ~~(6) Violating or aiding and abetting another person to violate~~
16 ~~the rules of the athletic conference, National Collegiate Athletic~~
17 ~~Association, or National Association of Intercollegiate Athletics;—~~

18 ~~(7) Having contact as prohibited by this chapter with a student~~
19 ~~athlete;—~~

20 ~~(8) Postdating agent contracts;—~~

21 ~~(9) Having an athlete agent certification revoked by a player's~~
22 ~~association; and—~~

23 ~~(10) Failure to abide by § 17-16-204(a).—~~

24 ~~(b) This part does not prohibit an athlete agent from:—~~

25 ~~(1) Sending to a student athlete written materials, provided that~~
26 ~~the athlete simultaneously sends an identical copy of the written materials to~~
27 ~~the student athlete's head coach and the athletic director or the director's~~
28 ~~designee of the college or university in which the student athlete is enrolled~~
29 ~~or to which the student athlete has provided a written intent to participate~~
30 ~~in intercollegiate athletics;—~~

31 ~~(2) Otherwise contacting a student athlete, provided the athlete~~
32 ~~agent gives prior written notice to the student athlete's head coach and the~~
33 ~~college or university athletic director or the director's designee of the~~
34 ~~college or university in which the student athlete is enrolled or to which the~~
35 ~~student athlete has provided a written intent to participate in~~
36 ~~intercollegiate athletics; and—~~

