



SPONSOR: Rep. B. Short & Sen. Walsh

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 434

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO PROFESSIONAL ATHLETES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as
2 shown by underline as follows:

3 CHAPTER 50E. PROFESSIONAL ATHLETE FUNDING ACT.

4 § 5001E. Short title.

5 This chapter is known and may be cited as “Professional Athlete Funding Act”.

6 § 5002E. Purpose; lawfulness of instruments.

7 The General Assembly finds and declares all of the following:

8 (1) The purpose of this chapter is to confirm that player brand agreements are valid, binding, and not
9 unconscionable so long as these agreements meet the requirements of this chapter.

10 (2) A player brand agreement is not a loan and, therefore, is not subject to laws and regulations that govern
11 loans.

12 (3) A player brand agreement may not be construed to give the investor any rights over the actions of the
13 professional athlete.

14 (4) The amount a professional athlete is required to pay under a player brand agreement may be more or less
15 than the amount provided to the professional athlete and may vary in proportion to the future income or earnings of the
16 professional athlete.

17 (5) The obligations of a professional athlete under a player brand agreement are not dischargeable under
18 bankruptcy law, unless if a court determines that not discharging the obligations would impose an undue hardship on
19 the debtor and the dependents of the debtor.

20 § 5003E. Definitions.

21 As used in this chapter:

22 (1) “Player brand agreement” means a written agreement between a professional athlete and an investor under
23 which the professional athlete commits to pay a specified percentage of the professional athlete’s future income or

earnings for a specified period of time, in exchange for payments to or on behalf of the professional athlete for advancement of the professional athlete's professional career, development, personal finances, or other purpose. A player brand agreement may also be referred to as an income share agreement.

(2) "Professional athlete" means an individual who meets one of the following:

a. Is employed as an athlete by a team that is a member of an association of 6 or more professional sports teams whose total combined revenues exceed \$10,000,000 per year, if the association governs the conduct of its members and regulates the contest and exhibitions in which its member teams regularly engage.

b. Is employed as an athlete by a minor league team that is affiliated with an association that meets the terms under paragraph (2)a. of this section.

c. Is classified or considered an amateur or professional golfer under the rules of the United States Golf Association.

(3) "Investor" means an individual or entity who invests capital in professional athletes in exchange for a future share of the professional athletes' income or earnings.

§ 5004E. Terms and conditions of player brand agreements.

(a) A player brand agreement that complies with the requirements of this section, whether entered into before or after [the effective date of the Act], is a valid, binding, and enforceable contract notwithstanding any state or common law limiting or otherwise regulating assignment of future income or earnings.

(b) A player brand agreement complies with the requirements of this section if the contract and the process of signing the contract meet all of the following conditions:

(1) The player brand agreement is written in the professional athlete's native language, or language in which the professional athlete is fluent.

(2) The player brand agreement specifies the percentage of future income or earnings that the professional athlete is obligated to pay to the investor.

(3) The player brand agreement identifies the income or earnings to be used for purposes of calculating the obligation of the professional athlete under the player brand agreement.

(4) The player brand agreement does not require the professional athlete to pay more than 30% of the professional athlete's future income or earnings as a professional athlete.

(5) The player brand agreement does not require the professional athlete to share a percentage of income or earnings for more than 30 years.

53 (6) The signing of the player brand agreement is documented through an audio or video recording device, and
54 complies with all of the following:

55 a. The player brand agreement is presented to the professional athlete at the signing of the agreement in
56 the professional athlete's native language or, in the alternative, a translator participates in the signing of the player
57 brand agreement and the translator's presence is documented by the audio or video recording.

58 b. The professional athlete confirms that the professional athlete understands that the professional athlete
59 may be required to pay the investor substantially more money over the course of the professional athlete's career
60 than the professional athlete received from the investor.

61 c. The professional athlete confirms that the professional athlete understands that if the professional
62 athlete does not satisfy the conditions specified in the player brand agreement to contractually trigger payment to
63 the investor, the professional athlete is under no obligation to pay the investor back.

64 d. The professional athlete confirms that the professional athlete had the opportunity for a lawyer,
65 financial advisor, or other representative of the professional athlete's choosing to review the contract for the
66 professional athlete.

67 § 5005E. Enforcement.

68 The Division of Consumer Protection has enforcement authority, as described in Subchapter II of Chapter 25 of
69 Title 29, over any payments to an investor made under a player brand agreement that does not comply with this chapter.

70 Section 2. This Act applies to any player brand agreement that is sought to be enforced or voided regardless of
71 whether the player brand agreement was entered into before or after the effective date of this Act.

SYNOPSIS

 This Act creates the Professional Athlete Funding Act, which authorizes and establishes regulations pertaining to player brand agreements.