

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 736
HOUSE BILL 1379

AN ACT TO AMEND G.S. 7A-39.3(a), G.S. 7A-39.6, G.S. 7A-52(a), G.S. 7A-53, AND G.S. 7A-4.20, RELATING TO THE RECALL TO ACTIVE SERVICE OF RETIRED JUSTICES AND JUDGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-39.3(a) is hereby rewritten to read as follows:

"(a) Justices of the Supreme Court and judges of the Court of Appeals who have not reached the mandatory retirement age specified in G.S. 7A-4.20(a) but have retired (1) under the provisions of either G.S. 7A-39.2(a) or G.S. 7A-39.2(b); or (2) under the Uniform Judicial Retirement Act after having completed 15 years of creditable service and after having attained the age of 65, are hereby constituted emergency justices and emergency judges of the court from which they retired, and shall be subject to temporary recall to active service on that court in the place of any justice of the Supreme Court or judge of the Court of Appeals, respectively, who is temporarily incapacitated to the extent that he cannot perform efficiently and promptly all the duties of his office."

Sec. 2. G.S. 7A-39.6 is rewritten to read as follows:

"Any justice of the Supreme Court or judge of the Court of Appeals who is eligible and desires to retire and is qualified to become an emergency justice or judge shall notify the Governor in writing of his intention to do so, including in the notice the facts which entitle him to retire. Upon receipt of such notice, the Governor shall issue to any such judge or justice qualified to receive it a commission as an emergency justice or judge. The commission shall be effective upon the date of his retirement and shall terminate when he reaches the maximum age for judicial service specified in G.S. 7A-4.20. Any commission for life heretofore issued to an emergency judge who has reached the maximum age for judicial service as specified in G.S. 7A-4.20, which became effective January 1, 1973, is hereby declared invalid."

Sec. 3. G.S. 7A-52(a) is hereby rewritten to read as follows:

"(a) Judges of the superior court who have not reached the mandatory retirement age specified in G.S. 7A-4.20, but have retired under the provisions of either G.S. 7A-51(a) or G.S. 7A-51(b); or under the Uniform Judicial Retirement Act after having completed 15 years of creditable service and after having attained the age of 65, are hereby constituted emergency judges of the superior court. The Chief Justice of the Supreme Court may order any emergency judge, who, in his opinion, is competent to perform the duties of a superior court judge, to hold regular or special sessions of superior court, as needed. Orders of assignment shall be in writing and entered upon the minutes of the superior court."

Sec. 4. G.S. 7A-53 is rewritten to read as follows:

"Any judge of the superior court who is eligible and desires to retire and is qualified to become an emergency judge shall notify the Governor in writing of his intention to do so, including in the notice the facts which entitle him to retire. Upon receipt of the notice, the Governor shall issue to any such judge qualified to receive it a commission as an emergency judge. The commission shall be effective upon the date of his retirement and shall terminate when he reaches the maximum age for judicial service specified in G.S. 7A-4.20. Any commission for life heretofore issued to an emergency judge who has reached the maximum

age for judicial service as specified in G.S. 7A-4.20, which became effective January 1, 1973, is hereby revoked."

Sec. 5. G.S. 7A-4.20(b) is rewritten to read as follows:

"(b) Subsection (a) of this section is equally applicable to emergency justices and judges who have been commissioned under G.S. 7A-39.3(a) and G.S. 7A-52(a)."

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.