

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 455
HOUSE BILL 778

AN ACT TO AMEND G.S. CHAPTER 7A TO AUTHORIZE RECALL FOR TEMPORARY SERVICE OF JUSTICES AND JUDGES WHO HAVE REACHED THE MANDATORY RETIREMENT AGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-4.20 is rewritten to read as follows:

"§ 7A-4.20. Age limit for service as justice or judge; exception. — No justice or judge of the appellate division of the General Court of Justice may continue in office beyond the last day of the month in which he attains his seventy-second birthday, and no judge of the superior court or district court division of the General Court of Justice may continue in office beyond the last day of the month in which he attains his seventieth birthday, but justices and judges so retired may be recalled for periods of temporary service as provided in Subchapters II and III of this Chapter."

Sec. 2. A new section is added to G.S. Chapter 7A, Article 6, to read as follows:

"§ 7A-39.13. Recall provisions applicable to active and emergency justices and judges who have reached the mandatory retirement age. — Justices and judges retired because they have reached the mandatory retirement age, and emergency justices and judges whose commissions have expired because they have reached the mandatory retirement age, may be temporarily recalled to active service under the following circumstances:

- (a) The justice or judge must consent to the recall.
- (b) The Chief Justice is authorized to recall retired justices, and the Chief Judge is authorized to recall retired judges of the Court of Appeals each to serve on the court from which retired.
- (c) The period of recall shall not exceed six months, but it may be renewed for an additional six months if the emergency for which the recall was ordered continues.
- (d) Prior to recall, the Chief Justice or the Chief Judge, as the case may be, shall satisfy himself that the justice or judge being recalled is capable of efficiently and promptly performing the duties of the office to which recalled.
- (e) Recall is authorized only to replace an active justice or judge who is temporarily incapacitated.
- (f) Jurisdiction and authority of a recalled justice or judge is as specified in G.S. 7A-39.7.
- (g) The Supreme Court and the Court of Appeals, as the case may be, shall prescribe rules respecting the filing of opinions prepared by a retired justice or judge after his period of temporary service has expired, and respecting any other matter deemed necessary and consistent with this section.
- (h) Compensation of recalled retired justices and judges is the same as for recalled emergency justices and judges under G.S. 7A-39.3(b).
- (i) Recall shall be evidenced by a commission signed by the Chief Justice or Chief Judge, as the case may be."

Sec. 3. G.S. 7A-39.3(b) is amended by addition of the following:

"However, no recalled retired or emergency justice or judge shall receive from the State total annual compensation for judicial services in excess of that received by an active justice or judge of the bench to which the justice or judge is recalled."

Sec. 4. A new section is added to G.S. Chapter 7A, Article 8, to read as follows:

"§ 7A-57. Recall provisions applicable to active and emergency trial judges who have reached the mandatory retirement age. — Superior and district court judges retired because they have reached the mandatory retirement age, and emergency superior and district court judges whose commissions have expired because they have reached the mandatory retirement age, may be recalled to preside over regular or special sessions of the court from which retired under the following circumstances:

- (a) The judge must consent to the recall.
- (b) The Chief Justice is authorized to order the recall.
- (c) Prior to ordering recall, the Chief Justice shall satisfy himself that the recalled judge is capable of efficiently and promptly discharging the duties of the office to which recalled.
- (d) Jurisdiction of a recalled retired superior court judge is as set forth in G.S. 7A-48, and jurisdiction of a recalled retired district court judge is as set forth in G.S. 7A-53.1.
- (e) Orders of recall and assignment shall be in writing and entered upon the minutes of the court to which assigned.
- (f) Compensation of recalled retired trial judges is the same as for recalled emergency trial judges under G.S. 7A-52(b)."

Sec. 5. General Statutes Chapter 7A, Article 8, is amended by insertion therein of a new section to read as follows:

"§ 7A-53.1. Jurisdiction of emergency district court judges. — Emergency district court judges have the same power and authority in all matters whatsoever, in the courts which they are assigned to hold, that regular district court judges holding the same courts would have. An emergency district court judge duly assigned to hold district court in a particular county or district has the same powers in the county or district in open court and in chambers as a resident district court judge or any district court judge regularly assigned to hold district court in that district, but his jurisdiction in chambers extends only until the session is adjourned or the session expires by operation of law, whichever is later."

Sec. 6. G.S. 7A-52(b) is amended by addition of the following:

"No recalled retired trial judge shall receive from the State total annual compensation for judicial services in excess of that received by an active judge of the bench to which the judge is recalled."

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1981.