

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 427
HOUSE BILL 761

AN ACT TO PROVIDE FOR THE LICENSURE OF FOREIGN LEGAL CONSULTANTS AND TO AUTHORIZE FOREIGN LEGAL CONSULTANTS TO ENGAGE IN A LIMITED PRACTICE OF LAW IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 84A.

"Foreign Legal Consultants.

"§ 84A-1. License to practice as a foreign legal consultant.

(a) The North Carolina Supreme Court may issue a license to practice in the form of a certificate of registration as a foreign legal consultant to any applicant who satisfies all of the following requirements:

- (1) Has been admitted to practice as an attorney, or the equivalent thereof, in a foreign country for at least five years as of the date of application for a certificate of registration;
- (2) Possesses the character, ethical, and moral qualifications required of a member of the North Carolina State Bar;
- (3) Intends to practice in the State as a foreign legal consultant and intends to maintain an office in the State for this practice;
- (4) Is at least 21 years of age;
- (5) Has been actively and substantially engaged in the practice of law or a profession or occupation that requires admission to the practice of law, or the equivalent thereof, in the foreign country in which the applicant holds a license for at least five of the seven years immediately preceding the date of application for a certificate of registration and is in good standing as an attorney, or the equivalent thereof, in that country; and
- (6) Obtains a certificate of registration as a foreign legal consultant pursuant to G.S. 84A-3.

(b) An applicant is not required to take an examination to be licensed under this Chapter.

(c) As used in this section, 'foreign country' means any country other than the United States of America. 'Foreign country' includes Puerto Rico, Guam, the Virgin Islands, and the possessions of the United States.

"§ 84A-2. Application for a certificate of registration.

(a) Any person desiring to obtain a certificate of registration as a foreign legal consultant shall file an application, in duplicate, with the North Carolina State Bar on a form prescribed by the North Carolina State Bar. The application shall be made under oath, and shall contain information relating to the applicant's age, residence, address, citizenship, occupation, general education, legal education, moral character, and any other matters requested by the North Carolina State Bar.

(b) An applicant shall submit two 2-inch by 3-inch photographs of the applicant showing a front view of the applicant's head and shoulders.

(c) The applicant shall submit an application fee required by the North Carolina State Bar with the application. An application fee imposed under this subsection may not exceed two hundred dollars (\$200.00). Applications that are received without fees or applications that are not substantially complete shall be promptly returned to the applicant, with a notice stating the reasons for returning the application unprocessed and stating any additional fees that the State Bar determines are required as a condition of reapplication.

(d) The application shall be accompanied by all of the following documents, and, if any documents are not in English, accompanied by duly authenticated English translations of:

(1) A certificate from the authority that has final jurisdiction regarding matters of professional discipline in the foreign country or jurisdiction in which the applicant was admitted to practice law, or the equivalent thereof. This certificate must be signed by a responsible official or one of the members of the executive body of the authority, imprinted with the official seal of the authority, if any, and must certify:

- a. The authority's jurisdiction in such matters;
- b. The applicant's admission to practice law, or the equivalent thereof, in the foreign country, the date of admission, and the applicant's standing as an attorney or the equivalent thereof; and
- c. Whether any charge or complaint ever has been filed with the authority against the applicant, and, if so, the substance of and adjudication or resolution of each charge or complaint.

(2) A letter of recommendation from one of the members of the executive body of this authority or from one of the judges of the highest law court or court of general original jurisdiction of the foreign country, certifying the applicant's professional qualifications, and a certificate from the clerk of this authority or the clerk of the highest law court or court of general original jurisdiction, attesting to the genuineness of the applicant's signature.

(3) A letter of recommendation from at least two attorneys, or the equivalent thereof, admitted in and practicing law in the foreign country, stating the length of time, when, and under what circumstances they have known the applicant and their appraisal of the applicant's moral character.

(4) Any other relevant documents or information as may be required by the North Carolina State Bar.

(e) In addition to the documents set forth in subsection (d) of this section, the North Carolina State Bar may require other evidence as to the applicant's education, professional qualification, character, fitness, and moral qualification.

(f) Records, papers, and other documents containing information collected or compiled by the North Carolina State Bar or any of its members or employees as a result of any investigation, application, inquiry or interview conducted in connection with an application for a certificate of registration are not public records within the meaning of Chapter 132 of the General Statutes.

(g) Reciprocity between North Carolina and the foreign country in which the applicant is licensed is required for the applicant to be licensed as a foreign legal consultant under this Chapter.

"§ 84A-3. Issuance of a certificate of registration; waiver.

(a) The North Carolina State Bar shall review the statements and the supporting documents contained in an application submitted pursuant to G.S. 84A-2 and shall report the results of their review, with recommendations, to the North Carolina Supreme Court.

(b) The North Carolina Supreme Court may issue to an applicant a certificate of registration as a foreign legal consultant.

(c) The North Carolina Supreme Court shall not grant a certificate of registration as a foreign legal consultant unless it is satisfied that the applicant possesses good moral character.

(d) Upon a showing that strict compliance with all of the provisions of G.S. 84A-2 would cause the applicant unnecessary hardship or upon a showing of professional qualifications to practice as a foreign legal consultant satisfactory to the North Carolina Supreme Court, the North Carolina Supreme Court may issue a certificate of registration under this Chapter to an applicant who did not satisfy the provisions of G.S. 84A-2.

"§ 84A-4. Scope of practice.

(a) Subject to the limitations set forth in subsections (b) and (c) of this section, a person licensed as a foreign legal consultant under this Chapter may provide legal services in the State and be compensated for those legal services.

(b) A person licensed as a foreign legal consultant shall not engage in any of the following:

- (1) Appear on behalf of another person or entity as the attorney for that person or entity in any legal proceeding or before any judicial officer or State or municipal agency or tribunal.
- (2) Sign or file in the capacity of an attorney any pleadings, motions, or other documents in any legal proceeding or before any judicial officer or State or municipal agencies, or tribunal.
- (3) Prepare any deed, deed of trust, mortgage, option, lease, assignment, agreement or contract of sale, or any other instrument that may affect title to real estate located in the United States.

- (4) Prepare any will or trust instrument affecting the disposition of any property located in the United States and owned by a resident of the United States.
- (5) Prepare any instrument relating to the administration of a decedent's estate in the United States.
- (6) Prepare any instrument affecting the marital relationship, rights, or duties of a resident of the United States or affecting the custody or care of the children of such a resident.
- (7) Render professional legal advice regarding State law, the laws of any other state, the laws of the District of Columbia, the laws of the United States or the laws of any foreign country other than the country in which the foreign legal consultant is admitted to practice as an attorney or the equivalent thereof.
- (8) In any way represent that the foreign legal consultant is licensed as an attorney in the State or in any other jurisdiction unless he or she is licensed in that jurisdiction.
- (9) Use any title other than 'foreign legal consultant'; provided, however, that the foreign legal consultant's authorized title and firm name in the foreign country in which he or she is admitted to practice as an attorney or the equivalent thereof, may be used, if the title, firm name, and the name of the foreign country are stated together with the title 'foreign legal consultant'. Nothing may be added to the title to create the impression that the foreign legal consultant holds a license to practice law in North Carolina.
- (10) Be hired by a firm as a partner, member, or in any capacity other than as a foreign legal consultant whose services shall be overseen by an attorney licensed to practice law in North Carolina.

(c) If a particular matter requires legal advice from a person admitted to practice law as an attorney in a jurisdiction other than the one in which the foreign legal consultant is admitted to practice law, or its equivalent thereof, then the foreign legal consultant shall consult an attorney, or the equivalent thereof, in that other jurisdiction, obtain written legal advice on the particular matter, and transmit the written legal advice to the client.

"§ 84A-5. Duties of a foreign legal consultant.

A foreign legal consultant shall:

- (1) Be subject to rules adopted by the North Carolina Supreme Court and the North Carolina State Bar and be subject to professional discipline in the same manner as is prescribed for disciplinary proceedings against attorneys;
- (2) Be subject to a proceeding brought by the North Carolina State Bar in superior court pursuant to G.S. 84-28(j) to protect the interests of clients of disabled, incapacitated, or deceased foreign legal consultants;

- (3) Provide the Clerk of the North Carolina Supreme Court with evidence of professional liability insurance, in an amount as prescribed by the Supreme Court to assure the foreign legal consultant's proper professional conduct and responsibility;
- (4) Subject his or her trust accounts to audit in the same manner as is prescribed for attorneys licensed to practice law in North Carolina;
- (5) Execute and file with the Clerk of the North Carolina Supreme Court, in a form and manner as prescribed by the Clerk:
 - a. An oath attesting that the foreign legal consultant will abide by the Rules of Professional Conduct of the North Carolina State Bar and those rules and directives of the North Carolina Supreme Court that are applicable to foreign legal consultants;
 - b. A document setting forth the foreign legal consultant's address in the State and designating the Clerk of the North Carolina Supreme Court as agent upon whom process may be served, with the same effect as if served personally upon the foreign legal consultant in any judicial, quasi-judicial, or administrative proceeding brought against the foreign legal consultant arising out of or based upon any legal services rendered or offered to be rendered by the foreign legal consultant within the State or to residents of the State; and
 - c. The foreign legal consultant's commitment to notify the Clerk of the North Carolina Supreme Court of any resignation or revocation of the foreign legal consultant's admission to practice law, or the equivalent thereof, in the foreign country in which he or she is admitted to practice as an attorney, or the equivalent thereof, and of any censure, suspension, reprimand, or expulsion with respect to that admission, or of any change of address within the State.
- (6) Pay an annual administration fee to the North Carolina State Bar equal in amount to the annual membership fee charged to active members of the North Carolina State Bar. Such fee shall be due on January 1 and delinquent on July 1 for each year or portion of a year in which the foreign legal consultant holds a certificate of registration. No portion of the annual administrative fee shall be waived or prorated. The State Bar's rules and regulations regarding enforcement and collection of annual membership fees shall apply to the enforcement of the obligation to pay the administrative fee.

"§ 84A-6. Service of process on foreign legal consultant.

Service of process on the Clerk of the North Carolina Supreme Court, pursuant to this Article, shall be made by personally delivering to and leaving with the Clerk duplicate copies of such process together with a fee of ten dollars (\$10.00). The Clerk shall promptly send one of such copies to the foreign legal consultant to whom the process is directed, by certified mail, return receipt requested, addressed to the foreign

legal consultant at the address specified by the foreign legal consultant in his or her application under G.S. 84A-2, as updated pursuant to G.S. 84A-5(5).

"§ 84A-7. Delegation of duties.

The North Carolina State Bar may delegate any of its duties under this Chapter to the North Carolina Board of Law Examiners.

"§ 84A-8. Adoption of Rules.

The North Carolina State Bar is authorized to adopt and amend such rules, subject to approval of the North Carolina Supreme Court, as are appropriate to accomplish the provisions of this Chapter."

Sec. 2. This act becomes effective January 1, 1996, and applies to applications filed on or after that date.

In the General Assembly read three times and ratified this the 12th day of July, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives