

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 327

Short Title: NC State Bar Changes/Fees. (Public)

Sponsors: Senators Rand; Berger of Franklin, Boseman, Clodfelter, Hartsell, Horton, Kerr, Smith, Snow, Soles, Stevens, and Thomas.

Referred to: Judiciary I.

March 3, 2005

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO THE STATUTES REGARDING THE NORTH CAROLINA STATE BAR AND TO PROVIDE THE STATE BAR WITH EXPLICIT STATUTORY AUTHORITY TO IMPOSE FEES TO SUPPORT ITS WORK.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 84-4.1 reads as rewritten:

"§ 84-4.1. Limited practice of out-of-state attorneys.

Any attorney domiciled in another state, and regularly admitted to practice in the courts of record of ~~and in good standing in that state and in good standing therein, state,~~ having been retained as attorney for a party to any civil or criminal legal proceeding pending in the General Court of Justice of North Carolina, the North Carolina Utilities Commission, the North Carolina Industrial Commission, the Office of Administrative Hearings of North Carolina, or any administrative agency, may, on motion, be admitted to practice in that forum for the sole purpose of appearing for a client in the ~~litigation-~~ proceeding. The motion required under this section shall be signed by the attorney and shall contain or be accompanied by:

- (1) The attorney's full name, post-office address, bar membership number, and status as a practicing attorney in another state.
- (2) A statement, signed by the client, setting forth the client's address and declaring that the client has retained the attorney to represent the client in the proceeding.
- (3) A statement that unless permitted to withdraw sooner by order of the court, the attorney will continue to represent the client in the proceeding until ~~the~~ its final determination thereof, determination, and that with reference to all matters incident to the proceeding, the attorney agrees to be subject to the orders and amenable to the disciplinary action and the civil jurisdiction of the General Court of

1 Justice and the North Carolina State Bar in all respects as if the
2 attorney were a regularly admitted and licensed member of the Bar of
3 North Carolina in good standing.

4 (4) A statement that the state in which the attorney is regularly admitted to
5 practice grants like privileges to members of the Bar of North Carolina
6 in good standing.

7 (5) A statement to the effect that the attorney has associated and is
8 personally appearing in the proceeding, with an attorney who is a
9 resident of this State and is duly and legally admitted to practice in the
10 General Court of Justice of North Carolina, upon whom service may
11 be had in all matters connected with the legal proceedings, or any
12 disciplinary matter, with the same effect as if personally made on the
13 foreign attorney within this State.

14 (6) A statement accurately disclosing a record of all that attorney's
15 disciplinary history. Discipline shall include (i) public discipline by
16 any court or lawyer regulatory organization, and (ii) revocation of any
17 pro hac vice admission.

18 (7) A fee in the amount of one hundred dollars (\$100.00) for support of
19 the General Court of Justice to be remitted to the State Treasurer.

20 (8) A fee in the amount of twenty-five dollars (\$25.00) to be remitted to
21 the Administrative Office of the Courts for transmission to the North
22 Carolina State Bar to regulate the practice of out-of-state attorneys as
23 provided in this section.

24 Compliance with the foregoing requirements does not deprive the court of the
25 discretionary power to allow or reject the application."

26 **SECTION 2.** G.S. 84-18.1(b) reads as rewritten:

27 "(b) Any district bar may from time to time by a majority vote of the members
28 present at a duly called meeting prescribe an annual membership fee to be paid by its
29 active members as a service charge to promote and maintain its administration,
30 activities and programs. The fee shall be in addition to, but shall not exceed, the amount
31 of the membership fee prescribed by G.S. 84-34 for active members of the North
32 Carolina State Bar. The district bar may also charge a late fee, which shall not exceed
33 thirty dollars (\$30.00), for the failure to pay judicial district bar dues on time. The
34 district bar shall mail a written notice to every active member of the district bar at least
35 30 days before any meeting at which an election is held to impose or increase
36 mandatory district bar dues. Every active member of a district bar which has prescribed
37 an annual membership fee shall keep its secretary-treasurer notified of his correct
38 mailing address and shall pay the prescribed fee at the time and place set forth in the
39 demand for payment mailed to him by its secretary-treasurer. The name of each active
40 member of a district bar who is more than 12 full calendar months in arrears in the
41 payment of any fee shall be furnished by the secretary-treasurer of the district bar to the
42 Council. In the exercise of its powers as set forth in G.S. 84-23, the Council shall
43 thereupon take disciplinary or other action with reference to the delinquent as it
44 considers necessary and proper."

1 **SECTION 3.** G.S. 84-28.1(b) reads as rewritten:

2 "(b) The disciplinary hearing commission of the North Carolina State Bar, or any
3 ~~committee thereof, committee of the disciplinary hearing commission, is authorized to~~
4 may hold hearings in discipline, incapacity and disability matters, ~~to~~ make findings of
5 fact and conclusions of law after ~~such~~ these hearings, ~~and to~~ enter orders necessary to
6 carry out the duties delegated to it by the ~~council~~ Council, and tax the costs to an
7 attorney who is disciplined or is found to be incapacitated or disabled."

8 **SECTION 4.** G.S. 84-23(a) reads as rewritten:

9 "(a) The Council is vested, as an agency of the State, with the authority to regulate
10 the professional conduct of licensed lawyers and State Bar certified paralegals. Among
11 other powers, the Council shall administer this Article; take actions that are necessary to
12 ensure the competence of lawyers and State Bar certified paralegals; formulate and
13 adopt rules of professional ethics and conduct; investigate and prosecute matters of
14 professional misconduct; grant or deny petitions for reinstatement; resolve questions
15 pertaining to membership status; arbitrate disputes concerning legal fees; certify legal
16 specialists and paralegals and charge fees to applicants and participants necessary to
17 administer these certification programs; determine whether a member is disabled;
18 maintain an annual registry of interstate and international law firms doing business in
19 this State; and formulate and adopt procedures for accomplishing these purposes. The
20 Council may do all things necessary in the furtherance of the purposes of this Article
21 that are not otherwise prohibited by law."

22 **SECTION 5.** G.S. 84-23.1(b1) reads as rewritten:

23 "(b1) All organizations offering prepaid legal services plans shall register those
24 plans with the North Carolina State Bar Council on forms provided by the Council.
25 Each plan shall be registered prior to its implementation or operation in this ~~State~~ State
26 and shall renew its registration with the State Bar annually."

27 **SECTION 6.** G.S. 84-23.1 is amended by adding a new subsection to read:

28 "(b2) Every plan shall pay an administrative fee to the Council for the initial
29 registration and an annual renewal fee in amounts determined by the Council."

30 **SECTION 7.** G.S. 84-28(h) reads as rewritten:

31 "(h) There shall be an appeal of right to the North Carolina Court of Appeals by
32 either party from any final order of the Disciplinary Hearing Commission and from any
33 final order of the Council in a reinstatement case. ~~imposing admonition, reprimand,~~
34 ~~eensure, suspension, stayed suspension, or disbarment upon an attorney, or involuntarily~~
35 ~~transferring a member of the North Carolina State Bar to disability inactive status to the~~
36 ~~North Carolina Court of Appeals.~~ Review by the appellate division shall be upon
37 matters of law or legal inference. The procedures governing any appeal shall be as
38 provided by statute or court rule for appeals in civil cases. A final order ~~which~~ that
39 imposes disbarment or suspension for 18 months or more shall not be stayed except
40 upon application, under the rules of the Court of Appeals, for a writ of supersedeas. A
41 final order imposing suspension for less than 18 months or any other discipline except
42 disbarment shall be stayed pending determination of any appeal of right."

43 **SECTION 8.** G.S. 84-34 reads as rewritten:

44 "**§ 84-34. Membership fees Fees and list of members.**

1 (a) Every active member of the North Carolina State Bar shall, prior to the first
2 day of July of each year, pay to the secretary-treasurer an annual membership fee in an
3 amount determined by the Council but not to exceed ~~two~~ three hundred dollars
4 ~~(\$200.00), (\$300.00),~~ and every member shall notify the secretary-treasurer of the
5 member's correct mailing address. Any member who fails to pay the required dues by
6 the last day of June of each year shall be subject to a late fee in an amount determined
7 by the Council but not to exceed thirty dollars (\$30.00). ~~All dues for prior years shall be~~
8 ~~as were set forth in the General Statutes then in effect.~~ The membership fee shall be
9 regarded as a service charge for the maintenance of the several services authorized by
10 this Article, and shall be in addition to all fees required in connection with admissions to
11 practice, and in addition to all license taxes required by law. The fee shall not be
12 ~~prorated: Provided, that no~~ prorated. No fee shall be required of an attorney licensed
13 after this Article shall have gone into effect until the first day of January of the calendar
14 year following that in which the attorney was licensed; but this proviso shall not apply
15 to attorneys from other states admitted on certificate. The fees shall be disbursed by the
16 secretary-treasurer on the order of the Council.

17 (b) The Council may charge and collect the following additional fees in amounts
18 determined by the Council:

- 19 (1) A reinstatement fee for any attorney seeking reinstatement from
20 inactive status, administrative suspension, or suspension for failure to
21 comply with the annual continuing legal education requirements.
- 22 (2) A registration fee and annual renewal fee for an interstate or
23 international law firm.
- 24 (3) An attendance fee for continuing legal education programs that may
25 include a fee to support the Chief Justice's Commission on
26 Professionalism.
- 27 (4) A late fee for failing to file timely the continuing legal education
28 annual report form, for failure to pay attendance fees, or failure to
29 complete the annual continuing legal education requirements.
- 30 (5) An administrative fee for any attorney against whom discipline has
31 been imposed.

32 (c) The secretary-treasurer shall annually, at a time and in a law magazine or
33 daily newspaper to be prescribed by the Council, publish an account of the financial
34 transactions of the Council in a form to be prescribed by it. The secretary-treasurer shall
35 compile and keep currently correct from the names and mailing addresses forwarded to
36 the secretary-treasurer and from any other available sources of information a list of
37 members of the North Carolina State Bar and furnish to the clerk of the superior court in
38 each county, not later than the first day of October in each year, a list showing the name
39 and address of each attorney for that county who has not complied with the provisions
40 of this Article. The name of each of the active members who are in arrears in the
41 payment of membership fees shall be furnished to the presiding judge at the next term
42 of the superior court after the first day of October of each year, by the clerk of the
43 superior court of each county wherein the member or members reside, and the court
44 shall thereupon take action that is necessary and proper. The names and addresses of

1 attorneys so certified shall be kept available to the public. The Secretary of Revenue is
2 ~~hereby directed to~~ shall supply the secretary-treasurer, from records of license tax
3 payments, with any information for which the secretary-treasurer may call in order to
4 enable the secretary-treasurer to comply with this requirement.

5 The list submitted to several clerks of the superior court shall also be submitted to
6 the Council at its October meeting of each year and it shall take the action thereon that
7 is necessary and proper."

8 **SECTION 9.** This act becomes effective July 1, 2005.