

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 327
Judiciary I Committee Substitute Adopted 6/14/05
Finance Committee Substitute Adopted 7/7/05

Short Title: NC State Bar Changes/Fees.

(Public)

Sponsors:

Referred to:

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. one~~
20 ~~hundred twenty-five dollars (\$125.00), of which one hundred dollars~~
21 ~~(\$100.00) shall be remitted to the State Treasurer for support of the~~
22 ~~General Court of Justice and twenty-five dollars (\$25.00) shall be~~
23 ~~transmitted to the North Carolina State Bar to regulate the practice of~~
24 ~~out-of-state attorneys as provided in this section.~~

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

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

28 "(b) Any district bar may from time to time by a majority vote of the members
29 present at a duly called meeting prescribe an annual membership fee to be paid by its
30 active members as a service charge to promote and maintain its administration,
31 activities and programs. The fee shall be in addition to, but shall not exceed, the amount
32 of the membership fee prescribed by G.S. 84-34 for active members of the North
33 Carolina State Bar. The district bar may also charge a late fee, which shall not exceed
34 fifteen dollars (\$15.00), for the failure to pay judicial district bar dues on time. The
35 district bar shall mail a written notice to every active member of the district bar at least
36 30 days before any meeting at which an election is held to impose or increase
37 mandatory district bar dues. Every active member of a district bar which has prescribed
38 an annual membership fee shall keep its secretary-treasurer notified of his correct
39 mailing address and shall pay the prescribed fee at the time and place set forth in the
40 demand for payment mailed to him by its secretary-treasurer. The name of each active
41 member of a district bar who is more than 12 full calendar months in arrears in the
42 payment of any fee shall be furnished by the secretary-treasurer of the district bar to the
43 Council. In the exercise of its powers as set forth in G.S. 84-23, the Council shall

1 thereupon take disciplinary or other action with reference to the delinquent as it
2 considers necessary and proper."

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

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

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

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

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

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

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

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

32 **SECTION 7.** Article 4 of Chapter 84 of the General Statutes is amended by
33 adding a new section to read:

34 **§ 84-34.2. Specific statutory authority for certain fees.**

35 In addition to fees the Council is elsewhere authorized to charge and collect, the
36 Council may charge and collect the following fees in amounts determined by the
37 Council:

- 38 (1) A reinstatement fee for any attorney seeking reinstatement from
39 inactive status, administrative suspension, or suspension for failure to
40 comply with the annual continuing legal education requirements.
41 (2) A registration fee and annual renewal fee for an interstate or
42 international law firm.

- 1 (3) An attendance fee for continuing legal education programs that may
2 include a fee to support the Chief Justice's Commission on
3 Professionalism.
4 (4) A late fee for failing to file timely the continuing legal education
5 annual report form, for failure to pay attendance fees, or failure to
6 complete the annual continuing legal education requirements.
7 (5) An administrative fee for any attorney against whom discipline has
8 been imposed."

9 **SECTION 8.** This act is effective when it becomes law and applies to fees
10 assessed on or after that date.