

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

HOUSE BILL 436
RATIFIED BILL

AN ACT TO FURTHER DEFINE THE TERM "PRACTICE LAW" FOR THE PURPOSE OF PROTECTING MEMBERS OF THE PUBLIC FROM HARM RESULTING FROM THE UNAUTHORIZED PRACTICE OF LAW BY A PERSON WHO IS NOT A TRAINED AND LICENSED ATTORNEY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 84-2.1 reads as rewritten:

"§ 84-2.1. "Practice law" defined.

(a) The phrase "practice law" as used in this Chapter is defined to be performing any legal service for any other person, firm or corporation, with or without compensation, specifically including the preparation or aiding in the preparation of deeds, mortgages, wills, trust instruments, inventories, accounts or reports of guardians, trustees, administrators or executors, or preparing or aiding in the preparation of any petitions or orders in any probate or court proceeding; abstracting or passing upon titles, the preparation and filing of petitions for use in any court, including administrative tribunals and other judicial or quasi-judicial bodies, or assisting by advice, counsel, or otherwise in any legal work; and to advise or give opinion upon the legal rights of any person, firm or corporation: Provided, that the above reference to particular acts which are specifically included within the definition of the phrase "practice law" shall not be construed to limit the foregoing general definition of the term, but shall be construed to include the foregoing particular acts, as well as all other acts within the general definition.

(b) The phrase "practice law" does not ~~encompass~~ encompass:

- (1) The drafting or writing of memoranda of understanding or other mediation summaries by mediators at community mediation centers authorized by G.S. 7A-38.5 or by mediators of employment-related matters for The University of North Carolina or a constituent institution, or for an agency, commission, or board of the State of North Carolina.
- (2) The selection or completion of a preprinted form by a real estate broker licensed under Chapter 93A of the General Statutes, when the broker is acting as an agent in a real estate transaction and in accordance with rules adopted by the North Carolina Real Estate Commission, or the selection or completion of a preprinted residential lease agreement by any person or Web site provider. Nothing in this subdivision or in G.S. 84-2.2 shall be construed to permit any person or Web site provider who is not licensed to practice law in accordance with this Chapter to prepare for any third person any contract or deed conveying any interest in real property, or to abstract or pass upon title to any real property, which is located in this State.
- (3) The completion of or assisting a consumer in the completion of various agreements, contracts, forms, and other documents related to the sale or lease of a motor vehicle as defined in G.S. 20-286(10), or of products or services ancillary or related to the sale or lease of a motor vehicle, by a motor vehicle dealer licensed under Article 12 of Chapter 20 of the General Statutes."

SECTION 2. Article 1 of Chapter 84 of the General Statutes is amended by adding a new section to read:

"§ 84-2.2. Exemption and additional requirements for Web site providers.



(a) The practice of law, including the giving of legal advice, as defined by G.S. 84-2.1 does not include the operation of a Web site by a provider that offers consumers access to interactive software that generates a legal document based on the consumer's answers to questions presented by the software, provided that all of the following are satisfied:

- (1) The consumer is provided a means to see the blank template or the final, completed document before finalizing a purchase of that document.
- (2) An attorney licensed to practice law in the State of North Carolina has reviewed each blank template offered to North Carolina consumers, including each and every potential part thereof that may appear in the completed document. The name and address of each reviewing attorney must be kept on file by the provider and provided to the consumer upon written request.
- (3) The provider must communicate to the consumer that the forms or templates are not a substitute for the advice or services of an attorney.
- (4) The provider discloses its legal name and physical location and address to the consumer.
- (5) The provider does not disclaim any warranties or liability and does not limit the recovery of damages or other remedies by the consumer.
- (6) The provider does not require the consumer to agree to jurisdiction or venue in any state other than North Carolina for the resolution of disputes between the provider and the consumer.
- (7) The provider must have a consumer satisfaction process. All consumer concerns involving the unauthorized practice of law made to the provider shall be referred to the North Carolina State Bar. The consumer satisfaction process must be conspicuously displayed on the provider's Web site.

(b) A Web site provider subject to this section shall register with the North Carolina State Bar prior to commencing operation in the State and shall renew its registration with the State Bar annually. The State Bar may not refuse registration.

(c) Each Web site provider subject to this section shall pay an initial registration fee in an amount not to exceed one hundred dollars (\$100.00) and an annual renewal fee in an amount not to exceed fifty dollars (\$50.00)."

SECTION 3. G.S. 84-10.1 reads as rewritten:

"§ 84-10.1. Private cause of action for the unauthorized practice of law.

If any person knowingly violates any of the provisions of G.S. 84-4 through G.S. 84-6 or G.S. 84-9, fraudulently holds himself or herself out as a North Carolina certified paralegal by use of the designations set forth in G.S. 84-37(a), or knowingly aids and abets another person to commit the unauthorized practice of law, in addition to any other liability imposed pursuant to this Chapter or any other applicable law, any person who is damaged by the unlawful acts set out in this section shall be entitled to maintain a private cause of action to recover damages and reasonable attorneys' fees; fees and other injunctive relief as ordered by court. No order or judgment under this section shall have any effect upon the ability of the North Carolina State Bar to take any action authorized by this Chapter."

SECTION 4. The General Assembly shall review the implementation of Section 2 of this act and consider whether the provision should be modified or discontinued by June 30, 2018.

SECTION 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of June,
2016.

s/ Robert A. Rucho
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

Pat McCrory
Governor

Approved _____ .m. this _____ day of _____, 2016