

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE DRS85112-RUqq-9 (3/11)

Short Title: State Bar Amendments. (Public)

Sponsors: Senators Rand; and Hartsell.

Referred to:

A BILL TO BE ENTITLED

AN ACT AMENDING THE LAW GOVERNING THE LIMITED PRACTICE OF
OUT-OF-STATE ATTORNEYS-AT-LAW AND THE OPERATION OF THE
COUNCIL AND DISCIPLINARY HEARING COMMISSION OF THE NORTH
CAROLINA STATE BAR.

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 that state and in good standing therein, 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. The motion required under this section 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 final determination thereof, 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 Justice and the North

1 Carolina State Bar in all respects as if the attorney were a regularly
2 admitted and licensed member of the Bar of North Carolina in good
3 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 signed by the attorney accurately disclosing a record of all
15 that attorney's disciplinary history. Discipline shall include (i) public
16 discipline by any court or lawyer regulatory organization, and (ii)
17 revocation of any pro hac vice admission.

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

20 **SECTION 2.** G.S. 84-23 reads as rewritten:

21 "**§ 84-23. Powers of Council.**

22 Subject to the superior authority of the General Assembly to legislate thereon by
23 general law, and except as herein otherwise limited, the Council is hereby vested, as an
24 agency of the State, with the authority to regulate the professional conduct of licensed
25 attorneys. Among other powers, the Council shall administer this Article; take actions
26 that are necessary to ensure the competence of lawyers; formulate and adopt rules of
27 professional ethics and conduct; investigate and prosecute matters of professional
28 misconduct; grant or deny petitions for reinstatement; resolve questions pertaining to
29 membership status; arbitrate disputes concerning legal fees; certify legal specialists;
30 determine whether a member is disabled; and formulate and adopt procedures for
31 accomplishing these purposes. The Council or any committee thereof, including the
32 Client Security Fund and the Disciplinary Hearing Commission or any committee
33 thereof, shall have the authority to subpoena financial records of any licensed attorneys,
34 attorneys whose licenses have been suspended, or disbarred attorneys, relating to any
35 account into which client or fiduciary funds have been deposited. The Council may
36 publish an official journal concerning matters of interest to the legal profession and may
37 acquire, hold, rent, encumber, alienate, and otherwise deal with real or personal
38 property in the same manner as any private person or corporation, subject only to the
39 approval of the Governor and the Council of State as to the acquisition, rental,
40 encumbering, leasing and sale of real property. The Council is authorized and
41 empowered in its discretion to utilize the services of the Purchase and Contract Division
42 of the Department of Administration for the procurement of personal property, in
43 accordance with the provisions of Article 3 of Chapter 143 of the General Statutes; and

1 to do all things necessary in the furtherance of the purposes of this Article as are not
2 prohibited by law."

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

4 "(a) There shall be a disciplinary hearing commission of the North Carolina State
5 Bar which shall consist of ~~15~~20 members. ~~Ten~~Twelve of these members shall be
6 members of the North Carolina State Bar, and shall be appointed by the Council. The
7 other ~~five~~eight shall be citizens of North Carolina not licensed to practice law in this or
8 any other state, ~~three~~four of whom shall be appointed by the Governor, ~~one~~two by the
9 General Assembly upon the recommendation of the President Pro Tempore of the
10 Senate in accordance with G.S. 120-121, and ~~one~~two by the General Assembly upon
11 the recommendation of the Speaker of the House of Representatives in accordance with
12 G.S. 120-121. The Council shall designate one of its appointees as chair and another as
13 vice-chair. The chair shall have actively practiced law in the courts of the State for at
14 least 10 years. Except as set out herein, the terms of members of the commission are set
15 at three years commencing on the first day of July of the year of their appointment. The
16 Council, the Governor, and the General Assembly respectively, shall appoint members
17 to fill unexpired terms when vacancies are created by resignation, disqualification,
18 disability or death, except that vacancies in appointments made by the General
19 Assembly may also be filled as provided by G.S. 120-122. No member may serve more
20 than a total of seven years or a one-year term and two consecutive three-year terms:
21 Provided, that any member or former member who is designated chair may serve one
22 additional three-year term in that capacity. No member of the Council may be appointed
23 to the commission."

24 **SECTION 4.** This act becomes effective July 1, 2003.