

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

H

4

HOUSE BILL 1487
Committee Substitute Favorable 5/2/07
Senate Judiciary II (Criminal) Committee Substitute Adopted 6/25/07
Fourth Edition Engrossed 6/26/07

Short Title: State Bar Changes.

(Public)

Sponsors:

Referred to:

April 17, 2007

A BILL TO BE ENTITLED

AN ACT TO CLARIFY ACTIVE MEMBERSHIP IN THE STATE BAR AND
ALLOW INACTIVE LAWYERS TO PROVIDE PRO BONO LEGAL SERVICES,
TO MODIFY THE NUMBER OF MEMBERS ON THE STATE BAR COUNCIL
TO EQUAL THE NUMBER OF JUDICIAL DISTRICTS PLUS SIXTEEN, TO
ALLOW LAW STUDENTS TO ACT AS LEGAL INTERNS FOR
GOVERNMENT AGENCIES AND OUT-OF-STATE LAWYERS TO PROVIDE
PRO BONO LEGAL SERVICES, AND TO REQUIRE THAT AN
OUT-OF-STATE LAWYER FILE A REGISTRATION STATEMENT WITH THE
STATE BAR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 84-16 reads as rewritten:

"§ 84-16. Membership and privileges.

The membership of the North Carolina State Bar shall consist of two classes, active and inactive.

The active members shall be all persons who ~~shall have heretofore obtained, or who shall hereafter obtain, obtained~~ a license or certificate, ~~which shall at the time be valid and effectual,~~ entitling them to practice law in the State of North Carolina, who shall have paid the membership dues ~~hereinafter specified, specified,~~ and who have satisfied all other obligations of membership. unless classified as an inactive member by the Council as hereinafter provided. No person other than a member of the North Carolina State Bar shall practice in any court of the State except foreign attorneys as provided by ~~statute.~~ statute and natural persons representing themselves.

Inactive members shall ~~be all be:~~

- (1) All persons who have obtained a license to practice law in the State but who have been found by the Council to be not engaged in the practice of law and not holding themselves out as practicing attorneys and not

1 occupying any public or private positions in which they may be called
2 upon to give legal advice or counsel or to examine the law or to pass
3 upon, adjudicate, or offer an opinion concerning the legal effect of any
4 act, document, or law.

5 (2) Persons allowed by the Council solely to represent indigent clients on
6 a pro bono basis under the supervision of an active member employed
7 by a nonprofit corporation qualified to render legal services pursuant
8 to G.S. 84-5.1.

9 All active members shall be required to pay annual membership fees, and shall have
10 the right to vote in elections held by the district bar in the judicial district in which the
11 member resides. ~~Provided, that if~~ If a member desires to vote with the bar of some
12 district in which the member practices, other than that in which the member resides, the
13 member may do so by filing with the Secretary of the North Carolina State Bar a
14 statement in writing that the member desires to vote in the other ~~district: Provided,~~
15 district; provided, however, that in no case shall the member be entitled to vote in more
16 than one district."

17 **SECTION 2.** G.S. 84-17 reads as rewritten:

18 "**§ 84-17. Government.**

19 The government of the North Carolina State Bar is vested in a council of the North
20 Carolina State Bar referred to in this Chapter as the "~~Council~~", which "Council." The
21 Council shall be composed of 55 a variable number of councilors equal to the number of
22 judicial districts plus 16, exclusive of officers, except as hereinafter provided, to be
23 appointed or elected as hereinafter set forth, the officers of the North Carolina State Bar,
24 who shall be councilors during their respective terms of office, and each retiring
25 president of the North Carolina State Bar who shall be a councilor for one year from the
26 date of expiration of his term as president. Notwithstanding any other provisions of the
27 law, the North Carolina State Bar may acquire, hold, rent, encumber, alienate, and
28 otherwise deal with real or personal property in the same manner as any private person
29 or corporation, subject only to the approval of the Governor and the Council of State as
30 to the acquisition, rental, encumbering, leasing and sale of real property. The Council
31 shall be competent to exercise the entire powers of the North Carolina State Bar in
32 respect of the interpretation and administration of this Article, the acquisition, lease,
33 sale, or mortgage of property, real or personal, the seeking of amendments ~~hereto, to~~
34 this Chapter, and all other matters. There shall be one councilor from each judicial
35 district and 16 additional councilors as are necessary to make the total number of
36 councilors 55. councilors. The additional councilors shall be allocated and reallocated
37 by the North Carolina State Bar every six years based on the number of active members
38 of each judicial district bar according to the records of the North Carolina State Bar and
39 in accordance with a formula to be adopted by the North Carolina State Bar, to insure an
40 allocation based on lawyer population of each judicial district bar as it relates to the
41 total number of active members of the State Bar.

42 A councilor whose seat has been eliminated due to a reallocation shall continue to
43 serve on the Council until expiration of the remainder of the current term. A councilor
44 whose judicial district is altered by the General Assembly during the councilor's term

1 shall continue to serve on the Council until the expiration of the term and shall represent
2 the district wherein the councilor resides or with which the councilor has elected to be
3 affiliated. If before the alteration of the judicial district of the councilor the judicial
4 district included both the place of residence and the place of practice of the councilor,
5 and if after the alteration of the judicial district the councilor's place of residence and
6 place of practice are located in different districts, the councilor must, not later than 10
7 days from the effective date of the alteration of the district, notify the Secretary of the
8 North Carolina State Bar of an election to affiliate with and represent either the
9 councilor's district of residence or district of practice.

10 In addition to the 55 councilors, there shall be three public members not licensed to
11 practice law in this or any other state who shall be appointed by the Governor. The
12 public members may vote and participate in all matters before the Council to the same
13 extent as councilors elected or appointed from the various judicial districts."

14 **SECTION 3.** G.S. 84-8 reads as rewritten:

15 "**§ 84-8. Punishment for violations; legal clinics of law schools and certain law**
16 **students and lawyers excepted.**

17 Any person, corporation, or association of persons violating the provisions of
18 G.S. 84-4 to ~~84-8~~ G.S. 84-7 shall be guilty of a Class 1 misdemeanor. ~~Provided, that~~
19 The provisions of G.S. 84-4 to ~~84-8~~ G.S. 84-7 shall not apply to the following:

- 20 (1) any ~~Any~~ law school ~~or law schools~~ conducting a legal clinic and
21 receiving as ~~their~~ its clientage only those persons unable financially to
22 compensate for legal advice or services ~~rendered~~ rendered and any
23 law student permitted by the North Carolina State Bar to act as a legal
24 intern in such a legal clinic.
- 25 (2) Any law student permitted by the North Carolina State Bar to act as a
26 legal intern for a federal, state, or local government agency.
- 27 (3) Any lawyer licensed by another state and permitted by the North
28 Carolina State Bar to represent indigent clients on a pro bono basis
29 under the supervision of active members employed by nonprofit
30 corporations qualified to render legal services pursuant to G.S. 84-5.1.
31 This provision does not apply to a lawyer whose license has been
32 suspended or revoked in any state."

33 **SECTION 4.** G.S. 84-4.1(5) reads as rewritten:

34 "**§ 84-4.1. Limited practice of out-of-state attorneys.**

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

43 ...

1 (5) A statement to the effect that the attorney has associated and is
2 personally appearing in the proceeding, with an attorney who is a
3 resident of this ~~State~~ State, has agreed to be responsible for filing a
4 registration statement with the North Carolina State Bar, and is duly
5 and legally admitted to practice in the General Court of Justice of
6 North Carolina, upon whom service may be had in all matters
7 connected with the legal proceedings, or any disciplinary matter, with
8 the same effect as if personally made on the foreign attorney within
9 this State.

10 "

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