

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

SESSION LAW 2004-174
HOUSE BILL 356

AN ACT TO AMEND THE AUTHORITY OF THE NORTH CAROLINA STATE BAR CONCERNING PARALEGALS AND FEES RELATING TO CERTIFICATION AND TO EXTEND THE SUNSET OF THE INDUSTRIAL COMMISSION FEE EARMARKED FOR INFORMATION TECHNOLOGY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 84-23 reads as rewritten:

"§ 84-23. Powers of Council.

(a) ~~Subject to the superior authority of the General Assembly to legislate thereon by general law, and except as herein otherwise limited, the~~ The Council is hereby vested, as an agency of the State, with the authority to regulate the professional conduct of licensed attorneys, lawyers and State Bar certified paralegals. Among other powers, the Council shall administer this Article; take actions that are necessary to ensure the competence of lawyers; lawyers and State Bar certified paralegals; formulate and adopt rules of professional ethics and conduct; investigate and prosecute matters of professional misconduct; grant or deny petitions for reinstatement; resolve questions pertaining to membership status; arbitrate disputes concerning legal fees; certify legal ~~specialists;~~ specialists and paralegals and charge fees to applicants and participants necessary to administer these certification programs; determine whether a member is disabled; and formulate and adopt procedures for accomplishing these purposes. The Council may do all things necessary in the furtherance of the purposes of this Article that are not otherwise prohibited by law.

(b) ~~The Council or any committee thereof, of the Council, including the Client Security Fund and the Disciplinary Hearing Commission or any committee thereof, of the Commission, shall have the authority to~~ may subpoena financial records of any licensed attorneys, attorneys lawyers, lawyers whose licenses have been suspended, or disbarred attorneys, lawyers, relating to any account into which client or fiduciary funds have been deposited.

(c) ~~The Council may publish an official journal concerning matters of interest to the legal profession and profession.~~

(d) ~~The Council may acquire, hold, rent, encumber, alienate, and otherwise deal with real or personal property in the same manner as any private person or corporation, subject only to the approval of the Governor and the Council of State as to the acquisition, rental, encumbering, leasing and sale of real property. The Council is authorized and empowered in its discretion to~~ may utilize the services of the Purchase and Contract Division of the Department of Administration for the procurement of to procure personal property, in accordance with the provisions of Article 3 of Chapter 143 of the General Statutes; and to do all things necessary in the furtherance of the purposes of this Article as are not prohibited by law. Statutes."

SECTION 2. G.S. 84-37 reads as rewritten:

"§ 84-37. State Bar may investigate and enjoin unauthorized practice activities.

(a) The Council or any committee appointed by it for that purpose may inquire into and investigate any charges or complaints of (i) unauthorized or unlawful practice of law, law or (ii) the use of the designations, "North Carolina Certified Paralegal," "North Carolina State Bar Certified Paralegal," or "Paralegal Certified by the North

Carolina State Bar Board of Paralegal Certification," by individuals who have not been certified in accordance with the rules adopted by the North Carolina State Bar. The Council or any committee of its members appointed for that purpose may inquire into and investigate any charges or complaints of unauthorized or unlawful practice of law. The Council may bring or cause to be brought and ~~maintain~~ maintained in the name of the North Carolina State Bar an action or actions, upon information or upon the complaint of any person or entity against any person or entity that engages in rendering any legal ~~service~~ service, holds himself or herself out as a North Carolina certified paralegal by use of the designations set forth in this subsection, or makes it a practice or business to render legal services ~~which that~~ are unauthorized or prohibited by ~~law or statutes relative thereto~~ law. No bond for cost shall be required in the proceeding.

(b) In an action brought under this ~~section~~ section, the final judgment if in favor of the plaintiff shall perpetually restrain the defendant or defendants from the commission or continuance of the unauthorized or unlawful act or acts ~~complaint of acts~~. A temporary injunction to restrain the commission or continuance ~~thereof~~ of the act or acts may be granted upon proof or by affidavit, that the defendant or defendants have violated any of the ~~laws or statutes~~ laws applicable to unauthorized or unlawful practice of ~~law~~ law or the unauthorized use of the designations set forth in subsection (a) of this section or any other designation implying certification by the State Bar. The provisions of ~~statute or rules~~ law relating generally to injunctions as provisional remedies in actions shall apply to a temporary injunction and the proceedings ~~thereunder~~ for temporary injunctions.

(c) The venue for actions brought under this section shall be the superior court of any county in which the relevant acts constituting unauthorized or unlawful practice of law are alleged to have been committed or in which there appear reasonable grounds that they will be ~~committed~~ committed or in the county where the defendants in the action ~~reside~~ reside, or in Wake County.

(d) The plaintiff in the action shall be entitled to ~~examination of~~ examine the adverse party and witnesses before filing complaint and before trial in the same manner as provided by law for ~~the examination of~~ examining parties.

(e) This section shall not repeal or ~~curtail~~ limit any remedy now provided in cases of unauthorized or unlawful practice of ~~law, and nothing~~ law. Nothing contained herein in this section shall be construed as disabling or abridging the inherent powers of the court in these matters.

(f) The Council or its duly appointed committee ~~has the authority to~~ may issue advisory opinions in response to inquiries from members or the public regarding whether contemplated conduct would constitute the unauthorized practice of law."

SECTION 3. Section 12.6C(e) of S.L. 2003-284 reads as rewritten:

"SECTION 12.6C.(e) The Commission may retain additional fees as authorized by subsection (a) of this section ~~only in the 2003-2005 fiscal biennium and shall not retain any additional fees after the 2003-2005~~ until the 2009-2011 fiscal biennium."

SECTION 4. This act becomes effective October 1, 2004.
In the General Assembly read three times and ratified this the 16th day of
July, 2004.

s/ Beverly E. Perdue
President of the Senate

s/ Richard T. Morgan
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 5:01 p.m. this 2nd day of August, 2004