

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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SENATE BILL 539

Short Title: State Bar Amendments.

(Public)

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Sponsors: Senators Rand, Hartsell; and Smith.

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Referred to: Judiciary I.

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March 26, 2003

1 A BILL TO BE ENTITLED  
2 AN ACT AMENDING THE LAW GOVERNING THE LIMITED PRACTICE OF  
3 OUT-OF-STATE ATTORNEYS-AT-LAW AND THE OPERATION OF THE  
4 COUNCIL AND DISCIPLINARY HEARING COMMISSION OF THE NORTH  
5 CAROLINA STATE BAR.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 84-4.1 reads as rewritten:

8 "§ 84-4.1. Limited practice of out-of-state attorneys.

9 Any attorney domiciled in another state, and regularly admitted to practice in the  
10 courts of record of that state and in good standing therein, having been retained as  
11 attorney for a party to any civil or criminal legal proceeding pending in the General  
12 Court of Justice of North Carolina, the North Carolina Utilities Commission, the North  
13 Carolina Industrial Commission, the Office of Administrative Hearings of North  
14 Carolina, or any administrative agency, may, on motion, be admitted to practice in that  
15 forum for the sole purpose of appearing for a client in the litigation. The motion  
16 required under this section shall contain or be accompanied by:

- 17 (1) The attorney's full name, post-office address, bar membership number,  
18 and status as a practicing attorney in another state.  
19 (2) A statement, signed by the client, setting forth the client's address and  
20 declaring that the client has retained the attorney to represent the client  
21 in the proceeding.  
22 (3) A statement that unless permitted to withdraw sooner by order of the  
23 court, the attorney will continue to represent the client in the  
24 proceeding until the final determination thereof, and that with  
25 reference to all matters incident to the proceeding, the attorney agrees  
26 to be subject to the orders and amenable to the disciplinary action and  
27 the civil jurisdiction of the General Court of Justice and the North  
28 Carolina State Bar in all respects as if the attorney were a regularly

1 admitted and licensed member of the Bar of North Carolina in good  
2 standing.

3 (4) A statement that the state in which the attorney is regularly admitted to  
4 practice grants like privileges to members of the Bar of North Carolina  
5 in good standing.

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

13 (6) A statement signed by the attorney accurately disclosing a record of all  
14 that attorney's disciplinary history. Discipline shall include (i) public  
15 discipline by any court or lawyer regulatory organization, and (ii)  
16 revocation of any pro hac vice admission.

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

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

20 "**§ 84-23. Powers of Council.**

21 Subject to the superior authority of the General Assembly to legislate thereon by  
22 general law, and except as herein otherwise limited, the Council is hereby vested, as an  
23 agency of the State, with the authority to regulate the professional conduct of licensed  
24 attorneys. Among other powers, the Council shall administer this Article; take actions  
25 that are necessary to ensure the competence of lawyers; formulate and adopt rules of  
26 professional ethics and conduct; investigate and prosecute matters of professional  
27 misconduct; grant or deny petitions for reinstatement; resolve questions pertaining to  
28 membership status; arbitrate disputes concerning legal fees; certify legal specialists;  
29 determine whether a member is disabled; and formulate and adopt procedures for  
30 accomplishing these purposes. The Council or any committee thereof, including the  
31 Client Security Fund and the Disciplinary Hearing Commission or any committee  
32 thereof, shall have the authority to subpoena financial records of any licensed attorneys,  
33 attorneys whose licenses have been suspended, or disbarred attorneys, relating to any  
34 account into which client or fiduciary funds have been deposited. The Council may  
35 publish an official journal concerning matters of interest to the legal profession and may  
36 acquire, hold, rent, encumber, alienate, and otherwise deal with real or personal  
37 property in the same manner as any private person or corporation, subject only to the  
38 approval of the Governor and the Council of State as to the acquisition, rental,  
39 encumbering, leasing and sale of real property. The Council is authorized and  
40 empowered in its discretion to utilize the services of the Purchase and Contract Division  
41 of the Department of Administration for the procurement of personal property, in  
42 accordance with the provisions of Article 3 of Chapter 143 of the General Statutes; and  
43 to do all things necessary in the furtherance of the purposes of this Article as are not  
44 prohibited by law."

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

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

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