

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 166
Judiciary II/Election Laws Committee Substitute Adopted 4/26/95
Third Edition Engrossed 5/8/95
House Committee Substitute Favorable 5/31/95

Short Title: Regulation of Attorneys-at-Law/AB.

(Public)

Sponsors:

Referred to:

February 9, 1995

A BILL TO BE ENTITLED
AN ACT TO AMEND CERTAIN PROVISIONS OF LAW THAT REGULATE
ATTORNEYS-AT-LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 84-1 reads as rewritten:

"§ 84-1. Oaths taken in open court.

Attorneys before they shall be admitted to practice law shall, in open court before a justice or judge of the General Court of Justice, personally appear and take the oath prescribed for ~~attorneys,~~ attorneys by G.S. 11-11, and also the oaths of allegiance to the State, and to support the Constitution of the United States, prescribed for all public ~~officers,~~ officers by Article VI, Sec. 7 of the North Carolina Constitution and G.S. 11-7, and the same shall be entered on the records of the court; and, upon such qualification had, and oath taken may act as attorneys during their good behavior."

Sec. 2. G.S. 84-2 reads as rewritten:

"§ 84-2. Persons disqualified.

No justice, judge, full-time district attorney, full-time assistant district attorney, public defender, assistant public defender, clerk, deputy or assistant clerk of the General Court

1 of Justice, ~~nor~~ register of deeds, deputy or assistant register of deeds, ~~nor sheriff~~, sheriff or
2 deputy sheriff shall engage in the private practice of law. Persons violating this provision
3 shall be guilty of a Class 3 misdemeanor and only fined not less than two hundred dollars
4 (\$200.00)."

5 Sec. 3. G.S. 84-2.1 reads as rewritten:

6 "**§ 84-2.1. 'Practice law' defined.**

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

21 Sec. 4. G.S. 84-4 reads as rewritten:

22 "**§ 84-4. Persons other than members of State Bar prohibited from practicing law.**

23 ~~It~~ Except as otherwise permitted by law, it shall be unlawful for any person or
24 association of persons, except active members of the Bar of the State of North Carolina
25 admitted and licensed to practice as attorneys-at-law, to appear as attorney or counselor at
26 law in any action or proceeding ~~in any court in this State or before any judicial body or~~
27 body, including the North Carolina Industrial Commission, or the Utilities Commission;
28 to maintain, conduct, or defend the same, except in his own behalf as a party thereto; or,
29 by word, sign, letter, or advertisement, to hold out himself, or themselves, as competent
30 or qualified to give legal advice or counsel, or to prepare legal documents, or as being
31 engaged in advising or counseling in law or acting as attorney or counselor-at-law, or in
32 furnishing the services of a lawyer or lawyers; and it shall be unlawful for any person or
33 association of persons except active members of the Bar, for or without a fee or
34 consideration, to give legal advice or counsel, perform for or furnish to another legal
35 services, or to prepare directly or through another for another person, firm or corporation,
36 any will or testamentary disposition, or instrument of trust, or to organize corporations or
37 prepare for another person, firm or corporation, any other legal document. Provided, that
38 nothing herein shall prohibit any person from drawing a will for another in an emergency
39 wherein the imminence of death leaves insufficient time to have the same drawn and its
40 execution supervised by a licensed attorney-at-law. The provisions of this section shall
41 be in addition to and not in lieu of any other provisions of ~~Chapter 84.~~ this Chapter.
42 Provided, however, this section shall not apply to corporations authorized to practice law
43 under the provisions of Chapter 55B of the General Statutes of North Carolina."

1 Sec. 5. G.S. 84-4.1 reads as rewritten:

2 **"§ 84-4.1. Limited practice of out-of-state attorneys.**

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

- 13 (1) The attorney's full name, post-office ~~address-address,~~ bar membership
14 number, and status as a practicing attorney in another state.
- 15 (2) A statement, signed by the client, setting forth the client's address and
16 declaring that the client has retained the attorney to represent the client
17 in the proceeding.
- 18 (3) A statement that unless permitted to withdraw sooner by order of the
19 court, the attorney will continue to represent the client in the proceeding
20 until the final determination thereof, and that with reference to all
21 matters incident to the proceeding, the attorney agrees to be subject to
22 the orders and amenable to the disciplinary action and the civil
23 jurisdiction of the General Court of Justice and the North Carolina State
24 Bar in all respects as if the attorney were a regularly admitted and
25 licensed member of the Bar of North Carolina in good standing.
- 26 (4) A statement that the state in which the attorney is regularly admitted to
27 practice grants like privileges to members of the Bar of North Carolina
28 in good standing.
- 29 (5) A statement to the effect that the attorney has associated and is
30 personally appearing in the proceeding, with an attorney who is a
31 resident of this State and is duly and legally admitted to practice in the
32 General Court of Justice of North Carolina, upon whom service may be
33 had in all matters connected with ~~such-the~~ legal proceedings, or any
34 disciplinary matter, with the same effect as if personally made on the
35 foreign attorney within this State.

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

38 Sec. 6. G.S. 84-4.2 reads as rewritten:

39 **"§ 84-4.2. Summary revocation of permission granted out-of-state attorneys to**
40 **practice.**

41 Permission granted under ~~the preceding section-G.S. 84-4.1~~ may be summarily revoked
42 by the General Court of Justice or any agency, including the North Carolina Utilities
43 Commission, on its own motion and in its discretion."

1 Sec. 7. G.S. 84-14 is recodified as G.S. 7A-97 in Article 11 of Chapter 7A of
2 the General Statutes.

3 Sec. 8. G.S. 84-16 reads as rewritten:

4 **"§ 84-16. Membership and privileges.**

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

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

14 Inactive members shall be all persons found by the Council to be not engaged in the
15 practice of law and not holding themselves out as practicing attorneys and not occupying
16 any public or private positions in which they may be called upon to give legal advice or
17 counsel or to examine the law or to pass ~~upon~~ upon, adjudicate, or offer an opinion
18 concerning the legal effect of any act, document, or law.

19 All active members shall be required to pay annual membership fees, and shall have
20 the right to ~~vote~~ vote in elections held by the district bar in the judicial district in which
21 the member resides. A member shall be entitled to vote at all annual or special meetings of the
22 North Carolina State Bar, and at all meetings of and elections held by the bar of each of the
23 judicial districts in which he resides: Provided, that if ~~he~~ a member desires to vote with the
24 bar of some district in which ~~he~~ the member practices, other than that in which ~~he~~ the
25 member resides, ~~he~~ the member may do so ~~upon~~ by filing with the resident judge of the
26 district in which he resides (and, after the North Carolina State Bar shall have been organized as
27 hereinafter set forth, with the secretary-treasurer of the North Carolina State Bar), ~~his~~ the
28 Secretary of the North Carolina State Bar a statement in writing that he the member
29 desires to vote in such the other district: Provided, however, that in no case shall ~~he~~ the
30 member be entitled to vote in more than one district."

31 Sec. 9. G.S. 84-17 reads as rewritten:

32 **"§ 84-17. Government.**

33 The government of the North Carolina State Bar is vested in a council of the North
34 Carolina State Bar ~~hereinafter~~ referred to in this Chapter as the 'council', 'Council', which
35 shall be composed of ~~50~~ 55 councilors exclusive of officers, except as hereinafter
36 provided, to be appointed or elected as hereinafter set forth, the officers of the North
37 Carolina State Bar, who shall be councilors during their respective terms of office, and
38 each retiring president of the North Carolina State Bar who shall be a councilor for one
39 year from the date of expiration of his term as ~~president, whose term of office expires at the~~
40 ~~1973 annual meeting or after~~ president. Notwithstanding any other provisions of the law,
41 the North Carolina State Bar ~~shall have the power and authority to~~ may acquire, hold, rent,
42 encumber, alienate, and otherwise deal with real or personal property in the same manner
43 as any private person or corporation, subject only to the approval of the Governor and the

1 Council of State as to the acquisition, rental, encumbering, leasing and sale of real
2 property. ~~The North Carolina State Bar Council is authorized and empowered in its discretion~~
3 ~~to utilize the services of the Purchase and Contract Division of the Department of~~
4 ~~Administration for the procurement of personal property, in accordance with the provisions of~~
5 ~~Article 3 of Chapter 143 of the General Statutes. Notwithstanding any provisions of this Article~~
6 ~~as to the voting powers of members, the council~~ The Council shall be competent to exercise
7 the entire powers of the North Carolina State Bar in respect of the interpretation and
8 administration of this Article, the acquisition, lease, sale, or mortgage of property, real or
9 personal, the seeking of amendments hereto, and all other ~~matters, except as otherwise~~
10 ~~directed or overruled, as in G.S. 84-33 provided.~~ matters. There shall be one councilor from
11 each judicial district and additional councilors as are necessary to make the total number
12 of councilors ~~50-55.~~ The additional councilors shall be allocated and reallocated by the
13 North Carolina State Bar every six years on the basis of the number of the ~~based on the~~
14 number of active members of each judicial district bar according to the records of the
15 North Carolina State Bar and in accordance with a formula to be adopted by the North
16 Carolina State Bar, to insure an allocation based on lawyer population of each judicial
17 district bar as it relates to the total number of active members of the State Bar.

18 A councilor whose seat has been eliminated due to a reallocation shall continue to
19 serve on the ~~council~~ Council until expiration of the remainder of the current term. A
20 councilor whose judicial district is altered by the General Assembly during the
21 councilor's term shall continue to serve on the Council until the expiration of the term and
22 shall represent the district wherein the councilor resides or with which the councilor has
23 elected to be affiliated. If before the alteration of the judicial district of the councilor the
24 judicial district included both the place of residence and the place of practice of the
25 councilor, and if after the alteration of the judicial district the councilor's place of
26 residence and place of practice are located in different districts, the councilor must, not
27 later than 10 days from the effective date of the alteration of the district, notify the
28 Secretary of the North Carolina State Bar of an election to affiliate with and represent
29 either the councilor's district of residence or district of practice.

30 In addition to the ~~50-55~~ councilors, there shall be three public members not licensed to
31 practice law in this or any other state who shall be appointed by the Governor. The
32 public members may vote and participate in all matters before the Council to the same
33 extent as councilors elected or appointed from the various judicial districts."

34 Sec. 10. G.S. 84-18 reads as rewritten:

35 "**§ 84-18. Terms, election and appointment of councilors.**

36 (a) Except as set out in this section, the terms of councilors are fixed at three years
37 commencing on the first day of January in the year following their election. A year shall
38 be the calendar year. No councilor may serve more than three successive three-year
39 terms but a councilor may serve an unlimited number of three successive three-year terms
40 provided a three-year period of nonservice intervenes in each instance. Any councilor
41 serving a partial term of 18 months or more is considered to have served a full term and
42 shall be eligible to be elected to only two successive three-year terms in addition to the
43 partial term. Any councilor serving a partial term of less than 18 months is eligible to be

1 elected to three successive three-year terms in addition to the partial term. This
2 paragraph shall not apply to officers of the State Bar.

3 ~~All councilors serving at the effective date of these changes shall remain in office and~~
4 ~~continue to represent their district for the remainder of their term. Those who have~~
5 ~~already served for 18 months or more shall be eligible for election to two additional~~
6 ~~three-year terms and be ineligible for election thereafter until a period of three years has~~
7 ~~expired. Those who have served less than 18 months shall be eligible for election to three~~
8 ~~consecutive three-year terms and be ineligible for election thereafter until an intervening~~
9 ~~three-year period has expired.~~

10 The secretary of a judicial district bar shall notify the secretary-treasurer of the State
11 Bar in writing of any additions to or deletions from the delegation of councilors
12 representing the district within 90 days of the effective date of the change. No new
13 councilor shall assume a seat until official notice of the election has been given to the
14 secretary-treasurer of the State Bar.

15 ~~When a judicial district loses a councilor or is entitled to an additional councilor by~~
16 ~~virtue of reallocation of councilors as provided in G.S. 84-17 above, then the affected~~
17 ~~judicial districts shall certify to the State Bar Council the identity of that judicial district's~~
18 ~~authorized councilor or councilors. This certification shall be made within 90 days of the~~
19 ~~date the reallocation is made and reported to the judicial districts affected. Until this~~
20 ~~certification is received, the district shall have no representation on the State Bar Council.~~
21 ~~In the case of reallocation, the certification shall be made within 90 days.~~

22 Any active member of the North Carolina State Bar member, other than an inactive
23 member, is eligible to serve as a councilor from the judicial district in which he or she the
24 member is eligible to vote.

25 (b) ~~The State Bar Council may promulgate rules to govern the election and~~
26 ~~appointment of councilors. The election and appointment of councilors shall be as~~
27 ~~follows:~~

28 Each judicial district bar shall elect one eligible North Carolina State Bar member for
29 each State Bar Council vacancy in the district. Any vacancy occurring after the election,
30 whether caused by resignation, ~~death~~ death, reconfiguration of the district by the General
31 Assembly, or otherwise shall be filled by the judicial district bar in which the vacancy
32 occurs. The appointment shall be for the unexpired portion of the term and shall be
33 certified to the State Bar Council by the judicial district bar. Any appointed councilor
34 shall be subject to the terms set forth in subsection (a) of G.S. 84-18.

35 (c) Public members shall serve three-year terms. No public member shall serve
36 more than two complete consecutive terms. The Secretary of the North Carolina State
37 Bar shall promptly inform the Governor when any seat occupied by a public member
38 becomes vacant. The successor shall serve the remainder of the term. Any public
39 member serving a partial term of 18 months or more is considered to have served a full
40 term and is eligible to be elected to only one additional three-year term in addition to the
41 partial term. Any public member serving a partial term of less than 18 months is eligible
42 to be elected to two successive three-year terms in addition to the partial term."

43 Sec. 11. G.S. 84-18.1 reads as rewritten:

1 **"§ 84-18.1. Membership and fees of district bars.**

2 (a) The district bar shall be a subdivision of the North Carolina State Bar subject
3 to the general supervisory authority of the Council and may adopt rules, regulations and
4 bylaws that are not inconsistent with this Article. A copy of any rules, regulations and
5 bylaws that are adopted, along with any subsequent amendments, shall be transmitted to
6 the Secretary-Treasurer of the North Carolina State Bar.

7 (b) Any district bar may from time to time by a majority vote of ~~its membership~~ the
8 members present at a duly called meeting prescribe an annual membership fee to be paid
9 by its active members as a service charge to promote and maintain its administration,
10 activities and programs. ~~Such~~ The fee shall be in addition to, but shall not exceed, the
11 amount of the membership fee prescribed by G.S. 84-34 for active members of the North
12 Carolina State Bar. The district bar shall mail a written notice to every active member of
13 the district bar at least 30 days before any meeting at which an election is held to impose
14 or increase mandatory district bar dues. Every active member of a district bar which has
15 prescribed an annual membership fee shall keep its secretary-treasurer notified of his
16 correct mailing address and shall pay the prescribed fee at the time and place set forth in
17 the demand for payment mailed to him by its secretary-treasurer. The name of each
18 active member of a district bar who ~~shall be~~ is more than 12 full calendar months in
19 arrears in the payment of any ~~such~~ fee shall be furnished by the secretary-treasurer of the
20 district bar to the ~~council of the North Carolina State Bar~~ Council. In the exercise of its
21 powers as set forth in G.S. 84-23, the ~~council~~ Council shall thereupon take ~~such~~
22 disciplinary or other action with reference to the delinquent as it considers necessary and
23 proper."

24 Sec. 12. G.S. 84-19 reads as rewritten:

25 **"§ 84-19. Judicial districts definition.**

26 For purposes of this Article, the term 'judicial district' ~~means a judicial district as in~~
27 ~~existence on January 1, 1987, refers to prosecutorial districts established by the General~~
28 Assembly and the term 'district bar' means the bar of a judicial district as defined by this
29 section."

30 Sec. 13. G.S. 84-20 reads as rewritten:

31 **"§ 84-20. Compensation of councilors.**

32 The members of the ~~council~~ Council and members of committees when actually
33 engaged in the performance of their duties, including committees sitting upon disbarment
34 proceedings, shall receive as compensation ~~not exceeding ten dollars (\$10.00) per day for the~~
35 ~~time spent in attending meetings, meetings~~ an amount to be determined by the Council,
36 subject to approval of the North Carolina Supreme Court, and shall receive actual
37 expenses of travel and subsistence while engaged in ~~his~~ their duties provided that for
38 transportation by use of private automobile the expense of travel shall not exceed ~~ten cents~~
39 ~~(10¢) per mile. the rate per mile allowed by G.S. 138-6.~~ The council Council shall
40 determine ~~per diem, subsistence per diem~~ and mileage to be paid. ~~Such~~ The allowance as
41 ~~may be~~ fixed by the ~~council~~ Council shall be paid by the secretary-treasurer of the North
42 Carolina State Bar upon ~~certified statements presented~~ presentation of appropriate
43 documentation by each member."

1 Sec. 14. G.S. 84-21 reads as rewritten:

2 "**§ 84-21. Organization of council; Council; publication of rules, regulations and**
3 **bylaws.**

4 Upon receiving notification of the election of a councilor for each judicial district, or,
5 if such notification shall not have been received from all said districts, within 120 days
6 after this Article shall have gone into effect, the clerk of the Supreme Court of North
7 Carolina shall call a meeting of the councilors of whose election he shall have been
8 notified, to be held in the City of Raleigh not less than 20 days nor more than 30 days
9 after the date of said call; and at the meeting so held the councilors attending the same
10 shall proceed to organize the council by electing officers, taking appropriate steps toward
11 the adoption of rules and regulations, electing councilors for judicial districts which have
12 failed to elect them, and taking such other action as they may deem to be in furtherance
13 of this Article. The regular term of all officers shall be one year, but those first elected
14 shall serve until January 1, 1935. The council shall be the judge of the election and
15 qualifications of its own members. When the council shall have been fully organized and
16 shall have adopted such rules, regulations and bylaws, not inconsistent with this Article,
17 as it shall deem necessary or expedient for the discharge of its duties, the secretary-
18 treasurer shall file with the clerk of the Supreme Court of North Carolina a certificate, to
19 be called the "certificate of organization," showing the officers and members of the
20 council, with the judicial districts which the members respectively represent, and their
21 post-office addresses, and the rules, regulations and bylaws adopted by it; and thereupon
22 the Chief Justice of the Supreme Court of North Carolina, or any judge thereof, if the
23 court be then in vacation, shall examine the said certificate and, if of opinion that the
24 requirements of this Article have been complied with, shall cause the said certificate to be
25 spread upon the minutes of the court; but if of opinion that the requirements of this
26 Article have not been complied with, shall return the said certificate to the secretary-
27 treasurer with a statement showing in what respects the provisions of this Article have not
28 been complied with; and the said certificate shall not be again presented to the Chief
29 Justice of the Supreme Court or any judge thereof, until any such defects in the
30 organization of the council shall have been corrected, at which time a new certificate of
31 organization shall be presented and the same course taken as hereinabove provided, and
32 so on until a correct certificate showing the proper organization of the council shall have
33 been presented, and the organization of the council accordingly completed. Upon (a)

34 the entry of an order upon the minutes of the court that the requirements of this
35 Article have been complied with, or (b) if for any reason the Chief Justice or judge
36 should not act thereon within 30 days, then, after the lapse of 30 days from the
37 presentation to the Chief Justice or judge, as the case may be, of any certificate of
38 organization hereinbefore required to be presented by the secretary treasurer, without
39 either the entry of an order or the return of said certificate with a statement showing the
40 respects in which this Article has not been complied with, the organization of the council
41 shall be deemed to be complete, and it shall be vested with the powers herein set forth;
42 and the certificate of organization shall thereupon forthwith be spread upon the minutes
43 of the court. A copy of the certificate of organization, as spread upon the minutes of the

1 court, shall be published in the next ensuing volume of the North Carolina Reports and in
2 the North Carolina Administrative Code.—The rules and regulations set forth in the
3 certificate of organization, and all other rules and regulations which may be adopted by
4 the ~~council~~ Council under this Article, ~~Article~~ may be amended by the ~~council~~ Council
5 from time to time in any manner not inconsistent with this Article. Copies of all ~~such~~
6 rules and regulations adopted ~~subsequently to the filing of the certificate of organization,~~
7 and of all amendments ~~so made~~ adopted by the ~~council~~ Council shall be certified to the
8 Chief Justice of the Supreme Court of North Carolina, entered by ~~it~~ the North Carolina
9 Supreme Court upon its minutes, and published in the next ensuing number of the North
10 Carolina Reports and in the North Carolina Administrative Code: Provided, that the court
11 may decline to have so entered upon its minutes any ~~of such~~ rules, regulations and
12 amendments which in the opinion of the Chief Justice are inconsistent with this Article."

13 Sec. 15. G.S. 84-22 reads as rewritten:

14 **"§ 84-22. Officers and committees of the North Carolina State Bar.**

15 The officers of the North Carolina State Bar and the Council shall consist of a
16 president, president-elect, vice-president and an immediate past president, who shall be
17 deemed members of the Council in all respects. The president, president-elect and vice-
18 president need not be members of the ~~State Bar~~ Council at the time of their election.
19 There shall be a secretary-treasurer who shall also have the title of executive director, but
20 who shall not be a member of the ~~State Bar~~ Council. All officers shall be elected annually
21 by the ~~State Bar~~ Council at an election to take place at the annual meeting of the North
22 Carolina State Bar. The regular term of all officers is one year. The Council is the judge
23 of the election and qualifications of its members.

24 In addition to the committees and commissions as may be specifically established or
25 authorized by law, the North Carolina State Bar may have committees, standing or
26 special, as from time to time the Council ~~of the North Carolina State Bar~~ deems appropriate
27 for the proper discharge of the duties and functions of the North Carolina State Bar. The
28 Council ~~of the North Carolina State Bar~~ shall determine the number of members,
29 composition, method of appointment or election, functions, powers and duties, structure,
30 authority to act, and other matters relating to each committee. Any committee may, at the
31 discretion of the appointing or electing authority, be composed of Council members or
32 members of the North Carolina State Bar who are not members of the Council, or of lay
33 persons, or of any combination."

34 Sec. 16. G.S. 84-23 reads as rewritten:

35 **"§ 84-23. Powers of Council.**

36 Subject to the superior authority of the General Assembly to legislate thereon by
37 general law, and except as herein otherwise limited, the Council is hereby vested, as an
38 agency of the State, with the ~~control of the discipline, disbarment and restoration of attorneys~~
39 ~~practicing law in this State.~~ authority to regulate the professional conduct of licensed
40 attorneys. Among other powers, The Council ~~the Council~~ shall have power to administer
41 this Article; take actions that are necessary to ensure the competence of lawyers; ~~to~~
42 formulate and adopt rules of professional ethics and conduct; ~~to formulate and adopt rules~~
43 ~~and procedures for discipline, incapacity and disability hearings;~~ investigate and prosecute

1 matters of professional misconduct; grant or deny petitions for reinstatement; resolve
2 questions pertaining to membership status; arbitrate disputes concerning legal fees;
3 certify legal specialists; determine whether a member is disabled; and formulate and
4 adopt procedures for accomplishing these purposes. The Council may ~~to~~ publish an
5 official journal concerning matters of interest to the legal ~~profession;~~ profession and may
6 ~~to~~ acquire, hold, rent, encumber, alienate, and otherwise deal with real or personal
7 property in the same manner as any private person or corporation, subject only to the
8 approval of the Governor and the Council of State as to the acquisition, rental,
9 encumbering, leasing and sale of real property. The ~~North Carolina State Bar Council~~ is
10 authorized and empowered in its discretion to utilize the services of the Purchase and
11 Contract Division of the Department of Administration for the procurement of personal
12 property, in accordance with the provisions of Article 3 of Chapter 143 of the General
13 Statutes; and to do all ~~such~~ things necessary in the furtherance of the purposes of this
14 Article as are not prohibited by law."

15 Sec. 17. G.S. 84-24 reads as rewritten:

16 "**§ 84-24. Admission to practice.**

17 ~~The provisions of the law now obtaining with reference to admission to the practice of~~
18 ~~law, as amended, and the rules and regulations prescribed by the Supreme Court of North~~
19 ~~Carolina with reference thereto, shall continue in force until superseded, changed or~~
20 ~~modified by or under the provisions of this Article.~~

21 For the purpose of examining applicants and providing rules and regulations for
22 admission to the Bar including the issuance of license therefor, there is hereby created the
23 Board of Law Examiners, which shall consist of 11 members of the Bar, elected by the
24 ~~council of the North Carolina State Bar, Council,~~ who need not be members of the ~~council.~~
25 Council. No teacher in any law school, however, shall be eligible. The members of the
26 Board of Law Examiners elected from the Bar shall each hold office for a term of three
27 years: ~~Provided, that the members first elected shall hold office, two for one year, two for two~~
28 ~~years, and two for three years.~~ years.

29 The Board of Law Examiners shall elect a member of ~~said the Board~~ as ~~chairman~~ chair
30 thereof, and the Board may employ an executive secretary and provide such assistance as
31 may be required to enable ~~said the Board~~ to perform its duties promptly and properly.
32 The ~~chairman~~ chair and any employees shall serve for ~~such period as said Board may~~
33 ~~determine.~~ a period of time determined by the Board.

34 The examination shall be held in ~~such the~~ manner and at ~~such the~~ times as the Board of
35 Law Examiners may determine.

36 The Board of Law Examiners shall have full power and authority to make or cause to
37 be made such examinations and investigations as may be deemed by it necessary to
38 satisfy it that the applicants for admission to the Bar possess the qualifications of
39 character and general fitness requisite for an attorney and counselor-at-law and to this
40 end the Board of Law Examiners shall have the power of subpoena and to summons and
41 examine witnesses under oath and to compel their attendance and the production of
42 books, papers and other documents and writings deemed by it to be necessary or material
43 to the inquiry and shall also have authority to employ and provide ~~such~~ assistance as may

1 be required to enable it to perform its duties promptly and properly. Records, papers, and
2 other documents containing information collected and compiled by the Board or its
3 members or employees as a result of investigations, inquiries, or interviews conducted in
4 connection with examinations or licensing matters, are not public records within the
5 meaning of Chapter 132 of the General Statutes.

6 All applicants for admission to the Bar shall be fingerprinted to determine whether the
7 applicant has a record of criminal conviction in this State or in any other state or
8 jurisdiction. The information obtained as a result of the fingerprinting of an applicant
9 shall be limited to the official use of the Board of Law Examiners in determining the
10 character and general fitness of the applicant.

11 The Board of Law Examiners, subject to the approval of the ~~council~~ Council shall by
12 majority vote, from time to time, make, alter and amend such rules and regulations for
13 admission to the Bar as in their judgment shall promote the welfare of the State and the
14 profession: Provided, that any change in the educational requirements for admission to
15 the Bar shall not become effective within two years from the date of the adoption of ~~such~~
16 the change.

17 All ~~such~~ rules and regulations, and modifications, alterations and amendments thereof,
18 shall be recorded and promulgated as provided in G.S. 84-21 in relation to the certificate
19 of organization and the rules and regulations of the ~~council~~ Council.

20 Whenever the ~~council~~ Council shall order the restoration of license to any person as
21 authorized by G.S. 84-32, it shall be the duty of the Board of Law Examiners to issue a
22 written license to ~~such~~ the person, noting thereon that the ~~same~~ license is issued in
23 compliance with an order of the ~~council of the North Carolina State Bar~~ Council, whether
24 the license to practice law was issued by the Board of Law Examiners or the Supreme
25 Court in the first instance.

26 Appeals from the Board shall be had in accordance with rules or procedures as may
27 be approved by the Supreme Court as may be submitted under G.S. 84-21 or as may be
28 promulgated by the Supreme Court."

29 Sec. 18. G.S. 84-28 reads as rewritten:

30 "**§ 84-28. Discipline and disbarment.**

31 (a) Any attorney admitted to practice law in this State is subject to the disciplinary
32 jurisdiction of the ~~council of the North Carolina State Bar~~ Council under such rules and
33 procedures as the ~~council~~ Council shall ~~promulgate~~ adopt as provided in ~~G.S. 84-21~~ G.S.
34 84-23.

35 (b) The following acts or omissions by a member of the North Carolina State Bar
36 or any attorney admitted for limited practice under G.S. 84-4.1, individually or in concert
37 with any other person or persons, shall constitute misconduct and shall be grounds for
38 discipline whether the act or omission occurred in the course of an attorney-client
39 relationship or otherwise:

- 40 (1) Conviction of, or a tender and acceptance of a plea of guilty or no
41 contest to, a criminal offense showing professional unfitness;

- 1 (2) The violation of the Rules of Professional Conduct adopted and
2 promulgated by the ~~council of the North Carolina State Bar~~ Council in
3 effect at the time of the act;
- 4 (3) Knowing misrepresentation of any facts or circumstances surrounding
5 any complaint, allegation or charge of misconduct; failure to answer any
6 formal inquiry or complaint issued by or in the name of the North
7 Carolina State Bar in any disciplinary matter; or contempt of the ~~council~~
8 Council or any committee of the North Carolina State Bar.
- 9 (c) Misconduct by any attorney shall be grounds for:
- 10 (1) Disbarment; ~~or~~
- 11 (2) Suspension for a period up to but not exceeding five years, any portion
12 of which may be stayed upon reasonable conditions to which the
13 offending attorney consents; ~~or~~
- 14 (3) Censure – A censure is a written form of discipline more serious than a
15 reprimand issued in cases in which an attorney has violated one or more
16 provisions of the Rules of Professional Conduct and has caused
17 significant harm or potential significant harm to a client, the
18 administration of justice, the profession or members of the public, but
19 the protection of the public does not require suspension of the attorney's
20 license; ~~or~~
- 21 (4) Reprimand – A reprimand is a written form of discipline more serious
22 than an admonition issued in cases in which an attorney has violated one
23 or more provisions of the Rules of Professional Conduct, but the
24 protection of the public does not require a censure. A reprimand is
25 generally reserved for cases in which the attorney's conduct has caused
26 harm or potential harm to a client, the administration of justice, the
27 profession, or members of the public; or
- 28 (5) Admonition – An admonition is a written form of discipline imposed in
29 cases in which an attorney has committed a minor violation of the Rules
30 of Professional Conduct.

31 Any order disbarring or suspending an attorney may impose reasonable conditions
32 precedent to reinstatement. No attorney who has been disbarred by the Disciplinary
33 Hearing Commission, the Council, or by order of any court may seek reinstatement to the
34 practice of law prior to five years from the effective date of the order of disbarment. Any
35 order of the Disciplinary Hearing Commission or the Grievance Committee imposing a
36 ~~censure, reprimand, or admonition~~ an admonition, reprimand, censure, or stayed suspension
37 may also require the attorney to complete a reasonable amount of continuing legal
38 education in addition to the minimum amount required by the North Carolina Supreme
39 Court.

40 (d) Any attorney admitted to practice law in this State, who is convicted of or has
41 tendered and has had accepted, a plea of guilty or no contest to, a criminal offense
42 showing professional unfitness, may be ~~suspended from the practice of law, but this~~
43 ~~suspension shall not take place pending appeal of the conviction.~~ disciplined based upon the

1 conviction, without awaiting the outcome of any appeals of the conviction. An order of
2 discipline based solely upon a conviction of a criminal offense showing professional
3 unfitness shall be vacated immediately upon receipt by the Secretary of the North
4 Carolina State Bar of a certified copy of a judgment or order reversing the conviction.
5 The fact that the attorney's criminal conviction has been overturned on appeal shall not
6 prevent the North Carolina State Bar from conducting a disciplinary proceeding against
7 the attorney based upon the same underlying facts or events that were the subject of the
8 criminal proceeding.

9 (d1) An attorney who is disciplined as provided in subsection (d) of this section
10 may petition the court in the trial division in the judicial district where the conviction
11 occurred for an order staying the disciplinary action pending the outcome of any appeals
12 of the conviction. The court may grant or deny the stay in its discretion upon such terms
13 as it deems proper. A stay of the disciplinary action by the court shall not prevent the
14 North Carolina State Bar from going forward with a disciplinary proceeding against the
15 attorney based upon the same underlying facts or events that were the subject of the
16 criminal proceeding.

17 (e) Any attorney admitted to practice law in this State who is disciplined in
18 another jurisdiction shall be subject to the same discipline in this State: Provided, that the
19 discipline imposed in the other jurisdiction does not exceed that provided for in
20 subsection (c) above and that the attorney was not deprived of due process in the other
21 jurisdiction.

22 (f) Upon application by the North Carolina State Bar, misconduct by an attorney
23 admitted to practice in this State may be restrained or enjoined where the necessity for
24 prompt action exists regardless of whether a disciplinary proceeding in the matter of ~~such~~
25 the conduct is pending. ~~Such~~The application shall be filed in the Superior Court of Wake
26 County and shall be governed by the procedure set forth in G.S. 1A-1, Rule 65.

27 (g) Any member of the North Carolina State Bar may be transferred to disability
28 inactive status for mental ~~incompetence-incompetence, or physical disability-disability, or~~
29 substance abuse interfering with the attorney's ability to competently engage in the
30 practice of law under such rules and procedures as the council shall promulgate as provided in
31 G.S. 84-21. the rules and procedures the Council adopts pursuant to G.S. 84-23.

32 (h) There shall be an appeal of right from any final order imposing admonition,
33 reprimand, censure, ~~suspension-suspension, stayed suspension,~~ or disbarment upon an
34 attorney, or involuntarily transferring a member of the North Carolina State Bar to
35 disability inactive status to the North Carolina Court of Appeals. Review by the appellate
36 division shall be upon matters of law or legal inference. The procedures governing any
37 ~~such~~ appeal shall be as provided by statute or court rule for appeals in civil cases. A final
38 order which imposes disbarment or suspension for 18 months or more shall not be stayed
39 except upon application, under the rules of the Court of Appeals, for a writ of
40 supersedeas. A final order imposing suspension for less than 18 months or any other
41 discipline except disbarment shall be stayed pending determination of ~~the any appeal.~~
42 appeal of right.

1 (i) The North Carolina State Bar may invoke the process of the General Court of
2 Justice to enforce the powers of the ~~council~~Council or any committee to which the ~~council~~
3 Council delegates its authority.

4 (j) The North Carolina State Bar may apply to appropriate courts for orders
5 necessary to protect the interests of clients of missing, suspended, disbarred, disabled,
6 ~~incapacitated~~ or deceased attorneys.

7 The senior regular resident judge of the superior court of any district wherein a
8 member of the North Carolina State Bar resides or maintains an office shall have the
9 authority and power to enter ~~such orders as are necessary~~ to protect the interests of ~~such~~
10 the clients, including the authority to order the payment of ~~counsel fees from the estate of~~
11 ~~the member~~ compensation by the member or the estate of a deceased or disabled member
12 to any attorney appointed to administer or conserve the law practice of the member.
13 Compensation awarded to a member serving under this section awarded from the estate
14 of a deceased member shall be considered an administrative expense of the estate for
15 purposes of determining priority of payment."

16 Sec. 19. G.S. 84-28.1(a) reads as rewritten:

17 "(a) There shall be a disciplinary hearing commission of the North Carolina State
18 Bar which shall consist of 15 members. Ten of these members shall be members of the
19 North Carolina State Bar, and shall be appointed by the ~~council~~Council. The other five
20 shall be citizens of North Carolina not licensed to practice law in this or any other state,
21 three of whom shall be appointed by the Governor, one by the Lieutenant Governor, and
22 one by the Speaker of the House of Representatives. The ~~council~~Council shall designate
23 one of its appointees as ~~chairman~~chair and another as ~~vice-chairman~~vice-chair. The
24 ~~chairman~~chair shall have actively practiced law in the courts of the State for at least 10
25 years. ~~When the commission is first selected, five members, including three appointed by the~~
26 ~~council, one appointed by the Governor and the one appointed by the Speaker of the House of~~
27 ~~Representatives, shall be appointed for terms of one year; five members, including three~~
28 ~~appointed by the council, one appointed by the Governor and the one appointed by the~~
29 ~~Lieutenant Governor, shall be appointed for terms of two years; and the remaining five members~~
30 ~~shall be appointed for terms of three years. All such initial terms shall commence July 1, 1975.~~
31 ~~Thereafter five members shall be appointed each year to three year terms to fill the positions of~~
32 ~~the terms then expiring.~~ Except as set out herein, the terms of members of the commission
33 are set at three years commencing on the first day of July of the year of their
34 appointment. The ~~council~~Council, the Governor, the Lieutenant Governor and the
35 Speaker of the House of Representatives, respectively, shall appoint members to fill ~~the~~
36 ~~unexpired term~~ terms when any ~~vacaney~~ vacancies are created by resignation,
37 disqualification, disability or death. No member may serve more than a total of seven
38 years or a one-year term and two consecutive three-year terms: Provided, that any
39 member or former member who is designated ~~chairman~~chair may serve one additional
40 three-year term in that capacity. No member of the ~~council~~Council may be appointed to
41 the commission."

42 Sec. 20. G.S. 84-28.2 reads as rewritten:

43 "**§ 84-28.2. Persons immune from suit.**

1 Persons shall be immune from suit for all statements made without malice, and
2 intended for transmittal to the North Carolina State Bar or any board, committee, officer,
3 agent or employee thereof, or given in any investigation or proceedings, pertaining to
4 alleged ~~misconduct, incapacity~~ misconduct or disability or to reinstatement of an attorney.
5 The protection of this immunity does not exist, however, as to statements made to others
6 not intended for ~~such~~ this use."

7 Sec. 21. G.S. 84-29 reads as rewritten:

8 **"§ 84-29. Evidence and witnesses.**

9 In any investigation of charges of professional ~~misconduct, incapacity~~ misconduct or
10 disability or in petitions for reinstatement, the ~~council~~ Council and any committee thereof,
11 and the disciplinary hearing commission, and any committee thereof, may administer
12 oaths and affirmations and shall have the power to subpoena and examine witnesses
13 under oath, and to compel their attendance, and the production of books, papers and other
14 documents or writings deemed by it necessary or material to the inquiry. Each subpoena
15 shall be issued under the hand of the secretary-treasurer or the president of the ~~council~~
16 Council or the ~~chairman~~ chair of the committee appointed to hear the charges, and shall
17 have the force and effect of a summons or subpoena issued by a court of record, and any
18 witness or other person who shall refuse or neglect to appear in obedience thereto, or to
19 testify or produce the books, papers, or other documents or writings required, shall be
20 liable to punishment for contempt either by the ~~council~~ Council or its committee or a
21 hearing committee of the disciplinary hearing commission through its ~~chairman~~ chair
22 pursuant to the procedures set out in Chapter ~~5A~~, 5A of the General Statutes, but with the
23 right to appeal therefrom. Depositions may be taken in any investigations of professional
24 misconduct as in civil proceedings, but the ~~council~~ Council or the committee hearing the
25 case may, in its discretion, whenever it believes that the ends of substantial justice so
26 require, direct that any witness within the State be brought before it. Witnesses giving
27 testimony under a subpoena before the ~~council~~ Council or any committee thereof, or the
28 disciplinary hearing commission or any committee thereof, or by deposition, shall be
29 entitled to the same fees as in civil actions.

30 In cases heard before the ~~council~~ Council or any committee thereof or the disciplinary
31 hearing commission or any committee thereof, if the party shall be convicted of the
32 ~~charges against him, he~~ charges, the party shall be taxed with the cost of the hearings:
33 Provided, however, that ~~such~~ the bill of costs shall not include any compensation to the
34 members of the ~~council~~ Council or committee before whom the hearings are conducted."

35 Sec. 22. G.S. 84-31 reads as rewritten:

36 **"§ 84-31. Counsel; investigators; powers; compensation.**

37 The ~~council~~ Council may appoint a member of the North Carolina State Bar to
38 ~~prosecute~~ to represent the North Carolina State Bar in any proceedings in which it has an
39 interest including reinstatement and the prosecution of charges of ~~misconduct, incapacity~~
40 misconduct or disability in ~~such~~ the hearings as ~~may be~~ that are held, including appeals,
41 and may authorize ~~such~~ counsel to employ assistant counsel, investigators, and
42 administrative assistants in such numbers as it deems necessary. Counsel and
43 investigators engaged in discipline, ~~incapacity~~ reinstatement, and disability matters shall

1 have the authority throughout the State to serve subpoenas or other process issued by the
2 ~~council~~Council or any committee thereof or the disciplinary hearing commission or any
3 committee thereof, in the same manner and with the same effect as an officer authorized
4 to serve process of the General Court of Justice. The ~~council~~Council may allow counsel,
5 assistant counsel, investigators and administrative assistants such compensation as it
6 deems proper."

7 Sec. 23. G.S. 84-32 reads as rewritten:

8 **"§ 84-32. Records and judgments and their effect; restoration of licenses.**

9 (a) In cases heard by the disciplinary hearing commission or any committee
10 thereof, ~~a complete record of the proceedings and evidence~~the proceedings shall be recorded
11 by a certified court reporter and an official copy of all exhibits introduced into evidence
12 shall be made and preserved in the office of the secretary-treasurer. Final judgments of
13 suspension or disbarment shall be entered upon the judgment docket of the superior court
14 in the district wherein the ~~accused~~respondent resides or practices law, and also upon the
15 minutes of the Supreme Court of North Carolina; and ~~such~~the judgment shall be effective
16 throughout the State.

17 (b) Whenever any attorney desires to voluntarily surrender his license, ~~he~~the
18 attorney must tender his~~the~~ license and a written resignation to the ~~council~~Council. The
19 ~~council~~Council, in its discretion, may accept or reject the tender. such a tender with or
20 without conditions, or reject such a tender. In the event such a tender is accepted, the council
21 shall either enter an Order of Discipline or refer the matter to the disciplinary hearing
22 commission for hearing in accordance with the rules and regulations prescribed by the council.
23 The hearing committee of the disciplinary hearing commission may enter a final Order of
24 Discipline or, if directed by the council, make a recommendation back to the council. If the
25 tender is accepted, the Council shall enter an order of disbarment. A copy of any order of
26 disbarment Order of Discipline shall be filed with the Clerk of the Supreme Court and with
27 the clerk of the superior court of the county of residence or prior residence of the licensee or
28 the county in which the attorney maintains an office for the practice of law. where the
29 respondent resides, maintains an office, or practices law and also upon the minutes of the
30 Supreme Court of North Carolina. The judgment shall be effective throughout the State.

31 (c) Whenever any attorney has been deprived of ~~his~~the attorney's license by
32 suspension or disbarment, the ~~council~~Council or the disciplinary hearing commission or
33 the ~~Secretary-Treasurer~~secretary-treasurer may, in accordance with rules and regulations
34 prescribed by the ~~council~~Council, restore the license upon due notice being given and
35 satisfactory evidence produced of proper reformation of ~~the licentiate~~the suspended or
36 disbarred attorney and of satisfaction of any conditions precedent to restoration.

37 (d) The Council has jurisdiction to determine any petition seeking the
38 reinstatement of the license of any attorney disbarred or suspended by any court in its
39 inherent power when requested by the court. The proceeding shall be governed by the
40 rules and regulations adopted by the Council. The disbarred or suspended attorney shall
41 satisfy all conditions precedent to reinstatement generally imposed upon attorneys
42 disbarred or suspended by the disciplinary hearing commission or the Council, as well as
43 any conditions imposed by the court. Under no circumstances shall an attorney disbarred

1 by a court or by the North Carolina State Bar be reinstated prior to five years from the
2 effective date of the order of disbarment."

3 Sec. 24. G.S. 84-33 reads as rewritten:

4 **"§ 84-33. Annual and special meetings.**

5 ~~There shall be an annual meeting of the North Carolina State Bar, open to all~~
6 ~~members in good standing, to be held at such place and time after such notice (but not~~
7 ~~less than 30 days) as the council may determine, for the discussion of the affairs of the~~
8 ~~Bar and the administration of justice; and special meetings of the North Carolina State~~
9 ~~Bar may be called, on not less than 30 days' notice, by the council, or on the call,~~
10 ~~addressed to the council, of not less than twenty five percent (25%) of the active~~
11 ~~members of the North Carolina State Bar; but at special meetings no subjects shall be~~
12 ~~dealt with other than those specified in the notice. Notice of all meetings, whether annual~~
13 ~~or special, may be given by publication in such newspapers of general circulation as the~~
14 ~~council may select, or, in the discretion of the council, by mailing notice to the secretary~~
15 ~~of the several district bars or to the individual active members of the North Carolina State~~
16 ~~Bar. The North Carolina State Bar shall not take any action in respect of any decision of~~
17 ~~the council or any committee thereof relating to admission, exclusion, discipline or~~
18 ~~punishment of any person or other action, save after notice in writing of the action of the~~
19 ~~council or committee proposed to be directed or overruled, which notice shall be given to~~
20 ~~the secretary-treasurer 30 days before the meeting, who shall give, by mail, at least 15~~
21 ~~days' notice to the members of the North Carolina State Bar, and unless at the meeting~~
22 ~~two thirds of the members present and voting shall favor the motion to direct or overrule.~~
23 ~~There shall be no voting by proxy.~~

24 The Council shall hold an annual meeting and other meetings necessary to conduct
25 the business of the North Carolina State Bar."

26 Sec. 25. G.S. 84-34 reads as rewritten:

27 **"§ 84-34. Membership fees and list of members.**

28 Every active member of the North Carolina State Bar shall, prior to the first day of
29 July of each year, ~~beginning with the year 1990,~~ pay to the secretary-treasurer an annual
30 membership fee ~~of one hundred thirty five dollars (\$135.00),~~ in an amount determined by the
31 Council but not to exceed two hundred dollars (\$200.00), and every member shall notify
32 the secretary-treasurer of ~~his~~ the member's correct post-office mailing address. Any
33 member who fails to pay the required dues by the last day of June of each year shall be
34 subject to a late fee in an amount determined by the Council but not to exceed seventy-
35 five dollars (\$75.00). All dues for prior years shall be as were set forth in the General
36 Statutes then in effect. The ~~said~~ membership fee shall be regarded as a service charge for
37 the maintenance of the several services ~~prescribed in~~ authorized by this Article, and shall
38 be in addition to all fees ~~now~~ required in connection with admissions to practice, and in
39 addition to all license taxes ~~now or hereafter~~ required by law. The ~~said~~ fee shall not be
40 prorated: Provided, that no fee shall be required of an attorney licensed after this Article
41 shall have gone into effect until the first day of January of the calendar year following
42 that in which ~~he shall have been~~ the attorney was licensed; but this proviso shall not apply
43 to attorneys from other states admitted on certificate. The ~~said~~ fees shall be disbursed by

1 the secretary-treasurer on the order of the ~~council~~-Council. The secretary-treasurer shall
2 annually, at a time and in a law magazine or daily newspaper to be prescribed by the
3 ~~council~~-Council, publish an account of the financial ~~transaction~~-transactions of the ~~council~~
4 Council in a form to be prescribed by it. The secretary-treasurer shall compile and keep
5 currently correct from the names and ~~post-office-mailing~~ addresses forwarded to ~~him~~-the
6 secretary-treasurer and from any other available sources of information a list of members
7 of the North Carolina State Bar and furnish to the clerk of the superior court in each
8 county, not later than the first day of October in each year, a list showing the name and
9 address of each attorney for that county who has not complied with the provisions of this
10 Article. The name of each of the active members who ~~shall be~~-are in arrears in the
11 payment of membership fees ~~for one or more calendar years~~ shall be furnished to the
12 presiding judge at the next term of the superior court after the first day of October of each
13 year, by the clerk of the superior court of each county wherein ~~said~~-the member or
14 members reside, and the court shall thereupon take ~~such~~-action as that is necessary and
15 proper. The names and addresses of ~~such~~-attorneys so certified shall be kept available to
16 the public. The Secretary of Revenue is hereby directed to supply the secretary-treasurer,
17 from ~~his record~~-records of license tax payments, with any information for which the
18 secretary-treasurer may call in order to enable ~~him~~-the secretary-treasurer to comply with
19 this requirement.

20 The ~~said~~ list submitted to several clerks of the superior court shall also be submitted to
21 the ~~council of the North Carolina State Bar~~-Council at its October meeting of each year and
22 it shall take ~~such~~-the action thereon ~~as that~~ is necessary and proper."

23 Sec. 26. G.S. 84-37 reads as rewritten:

24 "**§ 84-37. State Bar may investigate and enjoin unauthorized practice.**

25 (a) The ~~council~~-Council or any committee appointed by it for that purpose may
26 inquire into and investigate any charges or complaints of unauthorized or unlawful
27 practice of law. The ~~council~~-Council or any committee of its members appointed for that
28 purpose may inquire into and investigate any charges or complaints of unauthorized or
29 unlawful practice of law. The ~~council~~-Council may bring or cause to be brought and
30 maintain in the name of the North Carolina State Bar an action or actions, upon
31 information or upon the complaint of any ~~private person or of any bar association~~ against
32 ~~any person, partnership, corporation or association and any employee, agent, director, or officer~~
33 thereof who entity against any person or entity that engages in rendering any legal service
34 or makes it a practice or business to render legal services which are unauthorized or
35 prohibited by law or statutes relative thereto. No bond for cost shall be required in ~~such~~
36 the proceeding.

37 (b) In an action brought under this section the final judgment if in favor of the
38 plaintiff shall perpetually restrain the defendant or defendants from the commission or
39 continuance of the act or acts complained of. A temporary injunction to restrain the
40 commission or continuance thereof may be granted upon proof or by affidavit, that the
41 defendant or defendants have violated any of the laws or statutes applicable to
42 unauthorized or unlawful practice of law. The provisions of statute or rules relating

1 generally to injunctions as provisional remedies in actions shall apply to ~~such~~a temporary
2 injunction and the proceedings thereunder.

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

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

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

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

17 Sec. 27. This act becomes effective October 1, 1995, and applies to orders of
18 disbarment entered on or after that date and disciplinary proceedings based upon
19 convictions of offenses committed on or after that date. Section 25 applies to dues and
20 fees for years beginning with 1996.