

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 356*
Senate Finance Committee Substitute Adopted 7/1/04

Short Title: Fees.

(Public)

Sponsors:

Referred to:

March 10, 2003

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE AUTHORITY OF THE NORTH CAROLINA STATE
2 BAR CONCERNING PARALEGALS AND FEES RELATING TO
3 CERTIFICATION AND TO EXTEND THE SUNSET OF THE INDUSTRIAL
4 COMMISSION FEE EARMARKED FOR INFORMATION TECHNOLOGY.
5

6 The General Assembly of North Carolina enacts:

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

8 "**§ 84-23. Powers of Council.**

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

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

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

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

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

13 "**§ 84-37. State Bar may investigate and enjoin unauthorized practice, activities.**

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

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

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

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

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

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

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

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

15 **SECTION 4.** This act becomes effective October 1, 2004.