

April 18, 2007

**H 1737. LEGAL EXPENSE FUNDS.** Filed 4/18/07. *TO REGULATE LEGAL EXPENSE FUNDS OF ELECTED OFFICERS.*

Enacts new Article 22M of GS Chapter 163 requiring an elected official, or another person on the elected official's behalf, to create a legal expense fund (fund) if given a contribution to fund an existing or potential legal action taken by or against the elected official in his or her official capacity. Money remaining in the fund upon completion of the action must be distributed to the Indigent Person's Attorney Fee Fund or to the North Carolina State Bar for civil legal services for indigents. Provides for the appointment and removal of a treasurer and for the treasurer's training. The treasurer must keep detailed accounts and file an organizational report and quarterly reports with the State Board of Elections, each of which must include specified information. Requires the treasurer to electronically file each report that shows a cumulative total for the quarter exceeding \$5,000 in contributions or expenditures. The treasurer does not have to report the name of individuals making a total contribution of \$50 or less in a quarter. Prohibits contributions in excess of \$50 unless the contribution is in a form that is subject to written verification and provides that non-cash contributions may not be made unless they contain a specific designation of the intended contribution chosen by the contributor. Violation of the new Article is a Class 2 misdemeanor. Makes conforming changes to GS 163-278.22(7) and GS 163-278.22(8). Effective January 1, 2008. Repeals GS 163-278.36 (Elected officials to report funds).

**Intro. by Goodwin.**

GS 163

May 21, 2007

**H 1737. LEGAL EXPENSE FUNDS.** Filed 4/18/07. House committee substitute makes the following changes to 1st edition. Modifies proposed GS 163-278.300 (definitions) as follows: (1) expands the definition of *elected officer* to include an individual seeking an elected office in NC (was, individual serving in an elected office) and defines what constitutes *seeking elected office*, (2) adds the term *expenditure* as defined in GS 163-278.6(9), and (3) specifies that the term *person* does not include the state of NC or any of its political subdivisions. Modifies proposed GS 163-278.301 by (1) providing that the section (creation of legal expense funds) does not apply to any contribution to the state or any of its political subdivisions and (2) providing that a violation of GS Chapter 163, Article 22M, is a Class 1 misdemeanor (was, Class 2). Makes technical changes. Makes the act effective January 1, 2008 [was, section 1 (definitions), section 2 (regarding investigations of alleged violations), and section 3 (reporting of apparent violations to district attorney) become effective January 1, 2008, and the remainder becomes effective when it becomes law].

May 24, 2007

**H 1737. LEGAL EXPENSE FUNDS.** Filed 4/18/07. House amendments make the following changes to 2nd edition. Amendment #1 modifies proposed GS 163-278.320 to allow money remaining in the legal expense fund to be distributed to any of the seven listed funds or organizations (was, either to the Indigent Person's Attorney Fee Fund or to the North Carolina State Bar for the provision of civil legal services for indigents). Amendment #2 modifies proposed GS 163-278.300 to change the definition of *person* to an individual (removing firm, partnership, committee, association, corporation, business, or other organization or group of persons acting together, excluding the state or any of its political subdivisions). Modifies proposed GS 163-278.316 to prohibit a legal expense fund or its treasurer from accepting contributions from any corporation, labor, union, insurance company, professional association, or other business entity regardless of whether the entity does business in North Carolina. Also limits contributions to \$4,000 per person per year. Modifies the title to read *AN ACT TO REGULATE LEGAL EXPENSE FUNDS OF ELECTED OFFICERS TO PROVIDE FOR DISCLOSURE OF CONTRIBUTIONS AND EXPENDITURES AND TO LIMIT CONTRIBUTIONS.*

July 30, 2007

**H 1737. LEGAL EXPENSE FUNDS.** Filed 4/18/07. Senate committee substitute makes the following changes to 3rd edition. Modifies proposed GS 163-278.300 to exclude the following from the definition of *contribution*: (1) the provision of legal services to an elected officer by the state or any of its political subdivisions when those services are required by law and (2) the provision of free legal advice or services, except that any costs incurred or expenses advanced for which clients are liable under other provisions of law are contributions. Modifies the definition of *elected officer* to include an individual seeking or serving in a public office (was, elected office) and provides that an individual continues to be an elected officer as long as a legal action that was commenced while the individual was an elected officer continues. If a legal action is commenced after an individual is no longer serving or seeking public office but the legal action concerns subject matter in the individual's official capacity as an elected officer, the individual is considered an elected officer as long as that legal action continues. Defines *legal action* as a formal dispute in a judicial, legislative, or administrative forum, and investigations made or conducted before the commencement of any formal proceedings. Defines *official capacity* and *public office*.

Modifies proposed GS 163-278.301 to exclude contributions from an elected officer or the officer's spouse, parents, or siblings from those contributions for which a legal expense fund must be created. If a legal expense fund accepts contributions, the fund must report the officer's contributions and those from family members along with the other contributions. Excludes contractual arrangements from contributions, but if a legal expense fund has been created, then contractual arrangements must be reported as expenditures. Provides that the statute does not prohibit an elected officer from funding a legal action or potential legal action from a candidate campaign account as long as the funds are permitted under GS 163-278.16B (use of contributions for certain purposes).

Modifies proposed GS 163-278.308 to provide for the certification of the accuracy of filed statements. Makes it a Class I felony to make a certification knowing that the information is false.

Modifies proposed GS 163-278.316 to prohibit a contribution to a legal expense fund that would be a violation of GS 163-278.13B or GS 120-302 if made to a candidate or political committee. Deletes the \$4,000 contribution limit. Modifies proposed GS 163-278.320 to provide for the distribution of money remaining in a legal expense fund upon the closure of a legal expense account (was, upon completion of the legal action or potential legal action).

Amends GS 163-278.5 (scope of article; severability) and GS 163-278.23 (duties of executive director of board) to include references to Articles 22G (candidate-specific communications), 22H (mass mailings and telephone banks: candidate-specific communications), and 22M (legal expense funds).

Makes technical changes and conforms the title.

July 31, 2007

**H 1737. LEGAL EXPENSE FUNDS.** Filed 4/18/07. Senate amendment makes the following changes to 4th edition. Modifies proposed GS 163-278.300 to exclude the election itself or the campaign for election from the definition of *legal action*. Modifies proposed GS 163-278.301 to delete the provision provide that the statute does not prohibit an elected officer from funding a legal action or potential legal action from a candidate campaign committee or other campaign account or from a combination of those funds as long as the fund is permitted in GS 163-278.16B. Makes conforming technical changes. Modifies proposed GS 163-278.320 to prohibit an elected officer's campaign from being funded from a legal expense fund.

August 2, 2007

**H 1737. LEGAL EXPENSE FUNDS.** Filed 4/18/07. Conference report recommends the following changes to 5th edition to reconcile matters in controversy. Changes title to *AN ACT TO REGULATE LEGAL EXPENSE FUNDS OF ELECTED OFFICERS TO PROVIDE FOR DISCLOSURE OF CONTRIBUTIONS AND EXPENDITURES; AND TO LIMIT CERTAIN CONTRIBUTIONS*. Enacts new GS 163-278.301(d1) to provide: (1) that there be only one legal expense fund created for or by an elected officer for the same legal action, (2) that legal actions arising out of the same set of transactions and occurrences are deemed to be the same legal

action, and (3) that a legal expense fund created for one legal action or potential legal action may be kept open by or on behalf of the elected officer for subsequent legal actions or potential actions.

Modifies proposed new GS 163-278.316 to direct that no legal expense fund accept contributions in excess of \$4,000 per calendar year from a corporation, labor union, insurance company, professional association, or business entity. Directs that a legal expense fund may not accept contributions from any affiliated corporations, labor unions, insurance companies, or professional associations that when totaled, would exceed per calendar year contribution limits for that legal defense fund. Provides that the definitions for the above listed entities are the same as those in GS 163-278.6. Provides exceptions for political committees and certain corporations. Prohibits any entity from making a contribution to a legal expense fund that the fund cannot accept under the subsection.

August 10, 2007

**SL 2007-349 (H 1737). LEGAL EXPENSE FUNDS. AN ACT TO REGULATE LEGAL EXPENSE FUNDS OF ELECTED OFFICERS TO PROVIDE FOR DISCLOSURE OF CONTRIBUTIONS AND EXPENDITURES AND TO LIMIT CERTAIN CONTRIBUTIONS.**

Summarized in *Daily Bulletin* 4/18/07, 5/21/07, 5/24/07, 7/30/07, 7/31/07, and 8/2/07. Enacted August 9, 2007. Effective January 1, 2008.