

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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HOUSE BILL 436  
Committee Substitute Favorable 4/15/15  
Third Edition Engrossed 4/20/15  
Senate Rules and Operations of the Senate Committee Substitute Adopted 9/23/15  
Proposed Conference Committee Substitute H436-PCCS40668-RO-1

Short Title: Unauthorized Practice of Law Changes.

(Public)

Sponsors:

Referred to:

April 1, 2015

1 A BILL TO BE ENTITLED  
2 AN ACT TO FURTHER DEFINE THE TERM "PRACTICE LAW" FOR THE PURPOSE OF  
3 PROTECTING MEMBERS OF THE PUBLIC FROM HARM RESULTING FROM THE  
4 UNAUTHORIZED PRACTICE OF LAW BY A PERSON WHO IS NOT A TRAINED AND  
5 LICENSED ATTORNEY.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 84-2.1 reads as rewritten:

8 "§ 84-2.1. "Practice law" defined.

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

21 (b) The phrase "practice law" does not ~~encompass the~~ encompass:

22 (1) The drafting or writing of memoranda of understanding or other mediation  
23 summaries by mediators at community mediation centers authorized by  
24 G.S. 7A-38.5 or by mediators of employment-related matters for The  
25 University of North Carolina or a constituent institution, or for an agency,  
26 commission, or board of the State of North Carolina.

27 (2) The selection or completion of a preprinted form by a real estate broker  
28 licensed under Chapter 93A of the General Statutes, when the broker is acting  
29 as an agent in a real estate transaction and in accordance with rules adopted by  
30 the North Carolina Real Estate Commission, or the selection or completion of a  
31 preprinted residential lease agreement by any person or Web site provider.  
32 Nothing in this subdivision or in G.S. 84-2.2 shall be construed to permit any  
33 person or Web site provider who is not licensed to practice law in accordance



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1 with this Chapter to prepare for any third person any contract or deed  
2 conveying any interest in real property, or to abstract or pass upon title to any  
3 real property, which is located in this State.

- 4 (3) The completion of or assisting a consumer in the completion of various  
5 agreements, contracts, forms, and other documents related to the sale or lease of  
6 a motor vehicle as defined in G.S. 20-286(10), or of products or services  
7 ancillary or related to the sale or lease of a motor vehicle, by a motor vehicle  
8 dealer licensed under Article 12 of Chapter 20 of the General Statutes."

9 **SECTION 2.** Article 1 of Chapter 84 of the General Statutes is amended by adding a  
10 new section to read:

11 **"§ 84-2.2. Exemption and additional requirements for Web site providers.**

12 (a) The practice of law, including the giving of legal advice, as defined by G.S. 84-2.1  
13 does not include the operation of a Web site by a provider that offers consumers access to  
14 interactive software that generates a legal document based on the consumer's answers to questions  
15 presented by the software, provided that all of the following are satisfied:

- 16 (1) The consumer is provided a means to see the blank template or the final,  
17 completed document before finalizing a purchase of that document.  
18 (2) An attorney licensed to practice law in the State of North Carolina has reviewed  
19 each blank template offered to North Carolina consumers, including each and  
20 every potential part thereof that may appear in the completed document. The  
21 name and address of each reviewing attorney must be kept on file by the  
22 provider and provided to the consumer upon written request.  
23 (3) The provider must communicate to the consumer that the forms or templates  
24 are not a substitute for the advice or services of an attorney.  
25 (4) The provider discloses its legal name and physical location and address to the  
26 consumer.  
27 (5) The provider does not disclaim any warranties or liability and does not limit the  
28 recovery of damages or other remedies by the consumer.  
29 (6) The provider does not require the consumer to agree to jurisdiction or venue in  
30 any state other than North Carolina for the resolution of disputes between the  
31 provider and the consumer.  
32 (7) The provider must have a consumer satisfaction process. All consumer  
33 concerns involving the unauthorized practice of law made to the provider shall  
34 be referred to the North Carolina State Bar. The consumer satisfaction process  
35 must be conspicuously displayed on the provider's Web site.

36 (b) A Web site provider subject to this section shall register with the North Carolina State  
37 Bar prior to commencing operation in the State and shall renew its registration with the State Bar  
38 annually. The State Bar may not refuse registration.

39 (c) Each Web site provider subject to this section shall pay an initial registration fee in an  
40 amount not to exceed one hundred dollars (\$100.00) and an annual renewal fee in an amount not  
41 to exceed fifty dollars (\$50.00)."

42 **SECTION 3.** G.S. 84-10.1 reads as rewritten:

43 **"§ 84-10.1. Private cause of action for the unauthorized practice of law.**

44 If any person knowingly violates any of the provisions of G.S. 84-4 through G.S. 84-6 or  
45 G.S. 84-9, fraudulently holds himself or herself out as a North Carolina certified paralegal by use  
46 of the designations set forth in G.S. 84-37(a), or knowingly aids and abets another person to  
47 commit the unauthorized practice of law, in addition to any other liability imposed pursuant to this  
48 Chapter or any other applicable law, any person who is damaged by the unlawful acts set out in  
49 this section shall be entitled to maintain a private cause of action to recover damages and  
50 reasonable attorneys' ~~fees~~-fees and other injunctive relief as ordered by court. No order or

1 judgment under this section shall have any effect upon the ability of the North Carolina State Bar  
2 to take any action authorized by this Chapter."

3           **SECTION 4.** The General Assembly shall review the implementation of Section 2 of  
4 this act and consider whether the provision should be modified or discontinued by June 30, 2018.

5           **SECTION 5.** This act is effective when it becomes law.