



# HOUSE BILL 436: Unauthorized Practice of Law Changes

2015-2016 General Assembly

<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	September 23, 2015
<b>Introduced by:</b>	Reps. Daughtry, Bryan, Davis	<b>Prepared by:</b>	Karen Cochrane-Brown
<b>Analysis of:</b>	PCS to Third Edition H436-CSRO-32		Staff Attorney

**SUMMARY:** *The Senate Proposed Committee Substitute for House Bill 436 would exempt certain acts from the definition of the practice of law, including operation of a website that offers consumers the ability to generate legal documents based on the consumer's answers to questions, completion of certain pre-printed documents by licensed real estate brokers, and completion of documents related to the sale or lease of a motor vehicle by a licensed motor vehicle dealer.*

**CURRENT LAW:** G.S. 84.4 provides that except for active members of the North Carolina State Bar admitted and licensed to practice as attorneys-at-law, it is unlawful for any person, or association of persons, to engage in certain, specifically listed, behaviors that incorporate the practice of law.

The phrase "practice law" for purposes of licensure of attorneys is defined to be:

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

The phrase "practice law" specifically excludes written memoranda of mediators at community mediation centers or mediators of employment-related matters for The University of North Carolina or a constituent institution, or for an agency, commission, or board of the State of North Carolina.

**BILL ANALYSIS:** The PCS does the following:

Section 1 provides that the phrase "practice law" does not encompass the following activities:

- The operation of a website by a provider that offers consumers access to interactive software that generates a legal document based on the consumer's answers to questions presented by the software, provided certain conditions are met. The conditions include that: (1) the consumer must be able to see the blank template or the final document before purchase, (2) a North Carolina licensed attorney must have reviewed the blank template and the name and address of the attorney be made available to consumers, (3) the provider must inform the consumer that the documents are not a substitute for the advice of an attorney, (4) the

O. Walker Reagan  
Director



Research Division  
(919) 733-2578

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provider must disclose its legal name and address to the consumer, (5) the provider may not disclaim any warranties or liability or limit recovery of damages by the consumer, and (6) the provider may not require the consumer to accept venue outside of North Carolina.

- The completion of certain preprinted forms by a licensed real estate broker acting as agent in a real estate transaction.
- The completion of documents related to the sale or lease of a motor vehicle by a licensed motor vehicle dealer.

Section 2 clarifies that no order or judgment issued in a private action for the unauthorized practice of law shall have any effect on the ability of the State Bar to take any action authorized by Chapter 84.

**EFFECTIVE DATE:** Effective when it becomes law.

*R. Erika Churchill, counsel to House Judiciary I, substantially contributed to this summary.*