



# HOUSE BILL 436: Unauthorized Practice of Law Changes.

2015-2016 General Assembly

<b>Committee:</b>	<b>Date:</b>	September 12, 2016
<b>Introduced by:</b>	<b>Prepared by:</b>	Greg Roney
<b>Analysis of:</b>	S.L. 2016-60	Staff Attorney

**OVERVIEW:** *S.L. 2016-60 exempts certain acts from the definition of the practice of law, including: operation of a Web site 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.*

*This act became effective June 30, 2016.*

**CURRENT LAW:** G.S. 84.4 provides that only attorneys licensed by the NC State Bar may practice law.

The activities constituting "practice law" are defined as:

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:** S.L. 2016-60 provides that the definition of "practice law" excludes the following:

- 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 that the following conditions are met:
  - Consumer is able to see the blank template or the final document before purchase.

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- Licensed attorney reviews the blank template and the name and address of the attorney be made available to consumers.
  - Provider informs the consumer that the documents are not a substitute for the advice of an attorney.
  - Provider discloses its legal name and address to the consumer.
  - Provider may not disclaim any warranties or liability or limit recovery of damages by the consumer.
  - Provider may not require the consumer to bring court actions outside of the State.
  - Provider offers and conspicuously displays a consumer satisfaction process and refers all consumer concerns involving the unauthorized practice of law to the NC State Bar.
  - Provider annually registers with the NC State Bar prior to commencing operation.
  - Provider pays an initial registration fee in an amount not to exceed \$100 and an annual renewal fee in an amount not to exceed \$50.
- Completion of certain preprinted forms by a licensed real estate broker acting as agent in a real estate transaction.
  - Completion of a preprinted residential lease agreement by any person or Web site provider.
  - Completion of documents related to the sale or lease of a motor vehicle by a licensed motor vehicle dealer.

S.L. 2016-60 also clarifies that an order issued in a private action for the unauthorized practice of law shall not affect the authority of the NC State Bar under Chapter 84 of the General Statutes.

**EFFECTIVE DATE:** S.L. 2016-60 became effective June 30, 2016.

*Karen Cochrane-Brown and R. Erika Churchill, both with the Legislative Analysis Division, substantially contributed to this summary.*