

1 IN THE HOUSE

BY MR. KALAMARIDES

2 HOUSE BILL NO. 378

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Bar Associa-
7 tion and the regulation of the practice of
8 law; amending Ch. 196, SLA 1955 as amended
9 by Ch. 33, SLA 1957; and providing for an
10 effective date."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

12 Section 1. Sec. 5, Ch. 196, SLA 1955 is amended to read as
13 follows:

14 Section 5. BOARD OF GOVERNORS. There is hereby con-
15 stituted a Board of Governors of the Alaska Bar to be first
16 elected pursuant to rules promulgated by the Alaska Bar Com-
17 mission and, subsequent to the first election, to rules pro-
18 mulgated by the Board of Governors. The Board shall consist
19 of nine (9) active, practicing members who shall be elected
20 by the active members of the Alaska Bar from the four judicial
21 districts as described in Sec. 16, Ch. 50, SLA 1959. Three
22 (3) members shall be elected from the First Judicial District
23 [DIVISION], three (3) members from the Third Judicial District
24 [DIVISION], and three (3) members from the combined area of
25 the Second and Fourth Judicial Districts [DIVISIONS]; pro-
26 vided however that no more than two shall be resident
27 practicing attorneys in the Fourth Judicial District when
28 there are four or more resident practicing attorneys in
29 [DIVISION UNLESS MEMBERSHIP ON THE BOARD OF GOVERNORS IS

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1 SPECIFICALLY WAIVED IN WRITING BY THE ACTIVE PRACTICING MEM-
2 BERS, IF ANY, OF] the Second District [JUDICIAL DIVISION].
3 The members of the Board of Governors shall hold office for
4 three years and until their successors are elected and
5 qualified. The members of the first elected Board of Gover-
6 nors, at their first meeting, shall so classify themselves
7 by lot that three of them shall hold office for one year
8 only, three others for two years only, and three others for
9 three years only; after which first election three Board
10 members shall be elected annually, one from each area, as
11 hereinabove defined. The active members of the Alaska Bar
12 who are in actual attendance at the Association's annual con-
13 vention shall elect by a majority vote during the convention
14 the Association's officers from the membership of the Board
15 of Governors. [THE BOARD SHALL ELECT FROM AMONG ITS MEMBERS
16 THE OFFICERS OF THE ALASKA BAR.] Vacancies in Board member-
17 ship shall be filled by appointment by the remaining Board
18 members until the next annual election.

19 Sec. 2. Subsec. f., Sec. 7, Ch. 196, SLA 1955 is amended to
20 read as follows:

21 f. Providing for the organization and government of
22 district [DIVISIONAL], municipal and other local subdivisions
23 of the Alaska Bar;

24 Sec. 3. Subsec. h, Sec. 7, Ch. 196, SLA 1955 is amended to
25 read as follows:

26 h. Providing for all other matters, whether similar to
27 the foregoing or not, affecting in any way whatsoever the
28 organization and functioning of the Alaska Bar. Any such rule
29 may be modified or rescinded, or a new rule may be adopted, by

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1 a vote of the active members of the Association under rules
2 to be prescribed by the Board of Governors. Rules adopted
3 by the Board of Governors are not subject to the provisions
4 of the Administrative Procedure Act.

5 Sec. 4. Sec. 9, Ch. 196, SLA 1955 as amended by Sec. 1, Ch.
6 33, SLA 1957 is amended to read as follows:

7 Section 9. ELIGIBILITY FOR ADMISSION. Any person may
8 apply and shall be eligible for admission to the Alaska Bar,
9 upon examination or by reciprocity as provided in this Act,
10 if such person (1) is a citizen of the United States, over 21
11 years of age, and has been a resident of Alaska for at least
12 90 days prior to the date of application for admission by
13 examination or by reciprocity, and the date for the examina-
14 tion for admission or for certification by the Board of
15 Governors that the person be admitted on reciprocity shall be
16 at least 90 days after the application is made; [SET FOR
17 EXAMINATION FOR ADMISSION, OR THE DATE OF CERTIFICATION BY
18 THE BOARD OF GOVERNORS THAT THE PERSON MAY BE ADMITTED ON
19 RECIPROCITY;] and (2) is a graduate of a law school approved
20 by the American Bar Association, or is an attorney in good
21 standing in the Bar of another state or territory, or has
22 completed a clerkship in the manner which was required by
23 Sec. 35-2-44, ACLA 1949, which clerkship was commenced prior
24 to January 1, 1956.

25 (a) RECIPROCITY. Attorneys in good standing in
26 the Bar of another state or territory or the District of
27 Columbia, which admits members of the Alaska Bar to the
28 practice of law therein, shall be admitted without examination
29 and otherwise upon substantially the same terms and conditions

1 as are fixed in their respective jurisdictions for the
2 admission of attorneys from Alaska; Provided, however, that
3 as a prerequisite to admission to the Alaska Bar the Board
4 shall [MAY] require any such attorneys to take and pass an
5 [A WRITTEN] examination, unless [WHEN IN THE JUDGMENT OF THE
6 BOARD THE FACTS OF ANY PARTICULAR CASE INDICATE THAT] the
7 applicant has (1) passed a state bar examination, (2) engaged
8 in the active practice of law for at least five out of the
9 previous six years before filing the application, excluding
10 time spent in the military service of the United States, (3)
11 is a graduate of a law school accredited by the American Bar
12 Association; provided that ten years active practice of law
13 shall be deemed equivalent to graduation from an accredited
14 law school for the purposes of this subsection, and (4)
15 meets the character requirements determined by the Board.
16 [BEST INTERESTS OF THE PUBLIC AND OF THE ALASKA BAR WILL BE
17 SERVED BY FIRST TESTING BY MEANS OF SUCH WRITTEN EXAMINATION
18 SUCH ATTORNEYS' QUALIFICATIONS AND FITNESS TO ENGAGE IN THE
19 PRACTICE OF LAW IN ALASKA.] This proviso shall not be appli-
20 cable to those attorneys whose applications were completely
21 submitted [FILED WITH THE BOARD] prior to May 29, 1959, but
22 shall be applicable to those attorneys whose applications were
23 or are completed thereafter. [THE EFFECTIVE DATE OF THIS ACT.]

24 (b) EXAMINATION. All other applicants for admis-
25 sion to the Alaska Bar shall, before being certified by the
26 Board for admission, take and pass an examination in the
27 manner required pursuant to this Act.

28 Sec. 5. Sec. 11, Ch. 196, SLA 1955 is amended to read as
29 follows:

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1 Section 11. PROCEDURE FOR ADMISSION. The Board of
2 Governors shall pass upon all applications for permission to
3 practice law before the courts of Alaska, and when satisfied
4 that an applicant has the requisite qualifications to prac-
5 tice as an attorney and counselor, the Board shall so certify
6 to the Supreme Court of Alaska [U. S. DISTRICT COURT FOR THE
7 JUDICIAL DIVISION IN WHICH THE APPLICANT RESIDES]. Upon re-
8 ceiving such certification, unless objection be raised there-
9 in within five days, the Court shall make an order admitting
10 the applicant, and the Clerk shall issue him a certificate of
11 admission. In the event that an objection is raised, the suf-
12 ficiency thereof shall be finally determined within thirty
13 days.

14 Sec. 6. Sec. 14, Ch. 196, SLA 1955 is amended to read as
15 follows:

16 Section 14. DISCIPLINARY PROCEEDINGS AND REVIEW. Upon
17 finally determining any cause involving the discipline, dis-
18 barment, suspension or reinstatement of a member of the Alaska
19 Bar, the Board of Governors shall certify its findings and
20 recommendations thereon to the Supreme Court of Alaska [U. S.
21 DISTRICT COURT FOR THE JUDICIAL DIVISION WHEREIN THE ACCUSED
22 MEMBER RESIDES]. Upon receiving the findings and recommenda-
23 tions, the Court shall, within thirty days thereafter, issue
24 an order of disbarment, suspension, reinstatement, dismissal,
25 or otherwise, in full accordance with the recommendations of
26 the Board of Governors, unless the accused member shall sooner
27 petition the Court for review of the proceedings, findings and
28 recommendations of the Board. In the event such petition is
29 made, the Court shall proceed promptly with the review in the

1 manner prescribed in the Administrative Procedure Act [IT MAY
2 CHOOSE, AND AFTER COMPLETION OF THE REVIEW SHALL ISSUE SUCH
3 ORDER IN THE CAUSE AS THE COURT MAY, IN ITS DISCRETION, DETER-
4 MINE PROPER. ANY HEARINGS OR OTHER PROCEDURES BEFORE THE
5 COURT SHALL BE FOR THE SOLE PURPOSE OF REVIEW OF THE DETER-
6 MINATIONS OF THE BOARD OF GOVERNORS AND SHALL NOT CONSTITUTE
7 A TRIAL DE NOVO OF THE CAUSE. THE PROCEDURE FOR REVIEW HEREIN
8 SET FORTH SHALL BE THE EXCLUSIVE METHOD OF APPEAL FROM THE
9 DETERMINATIONS OF THE BOARD OF GOVERNORS IN ANY MATTER INVOLV-
10 ING THE DISCIPLINE, DISBARMENT, SUSPENSION OR REINSTATEMENT
11 OF A MEMBER OF THE ALASKA BAR. A FULL STENOGRAPHIC RECORD
12 OF ALL HEARINGS ON MATTERS INVOLVING DISCIPLINE, DISBARMENT,
13 SUSPENSION OR REINSTATEMENT SHALL BE KEPT. THE BOARD OF
14 GOVERNORS SHALL HAVE POWER TO ISSUE SUBPOENAS AND TO INVOKE
15 THE AID OF THE U.S. DISTRICT COURT, IF NECESSARY, TO COMPEL
16 THE ATTENDANCE OF WITNESSES AT HEARINGS HELD PURSUANT TO
17 THE POWERS GRANTED HEREIN].

18 Sec. 7. Section 10, Ch. 196, SLA 1955 is amended to read
19 as follows:

20 Sec. 10 FEES

21 a. There shall be an annual membership fee for active
22 members which shall not exceed the sum of \$100.00 [\$50.00]
23 payable on or before February first of each year. [PROVIDED,
24 THAT THE MEMBERSHIP FEE FOR THE YEAR 1955 SHALL BE PAYABLE
25 NOT LATER THAN AUGUST FIRST, 1955.] The Board of Governors
26 shall have the power before January first of any year to
27 establish the membership fee for the succeeding year.

28 Sec. 8. This Act takes effect on the day after its passage
29 and approval or on the day it becomes law without such approval.

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SENATE AMENDMENTS TO HOUSE BILL NO. 378, AS AMENDED
(adopted March 25, 1960)

1. Page 1, beginning on line 12, delete Section 1 and insert a new section in lieu thereof as follows:

Section 1. Sec. 5, Ch. 196, SLA 1955 is amended to read as follows:

Section 5. BOARD OF GOVERNORS. There is hereby constituted a Board of Governors of the Alaska Bar to be first elected pursuant to rules promulgated by the Alaska Bar Commission and, subsequent to the first election, to rules promulgated by the Board of Governors. The Board shall consist of nine (9) active, practicing members who shall be elected by the active members of the Alaska Bar from the four judicial districts as described in Sec. 16, Ch. 50, SLA 1959. Three (3) members shall be elected from the First Judicial District [DIVISION], three (3) members from the Third Judicial District [DIVISION], and three (3) members from the combined area of the Second and Fourth Judicial Districts [DIVISIONS], provided however that no more than two shall be resident practicing attorneys in the Fourth Judicial District when there are four or more resident practicing attorneys in [DIVISION UNLESS MEMBERSHIP ON THE BOARD OF GOVERNORS IS SPECIFICALLY WAIVED IN WRITING BY THE ACTIVE PRACTICING MEMBERS, IF ANY, OF] the Second District [JUDICIAL DIVISION]. The members of the Board of Governors shall hold office for three years and until their successors are elected and qualified. The members of the first elected Board of Governors, at their first meeting, shall so classify themselves by lot that three of them shall hold office for one year only, three others for two years only, and three others for three years only; after which first election three Board members shall be elected annually, one from each area, as hereinabove defined. The active members of the Alaska Bar who are in actual attendance at the Association's annual convention shall elect by a majority vote during the convention the Association's officers from the membership of the Board of Governors. [THE BOARD SHALL ELECT FROM AMONG ITS MEMBERS THE OFFICERS OF THE ALASKA BAR.] Vacancies in Board membership shall be filled by appointment by the remaining Board members until the next annual election.

2. Page 2, line 18, add a new section 3 (and renumber all other sections accordingly) to read as follows:

Sec. 3. Subsec. h, Sec. 7, Ch. 196, SLA 1955 is amended to read as follows:

h. Providing for all other matters, whether similar to the foregoing or not, affecting in any way

whatsoever the organization and functioning of the Alaska Bar. Any such rule may be modified or rescinded, or a new rule may be adopted, by a vote of the active members of the Association under rules to be prescribed by the Board of Governors. Rules adopted by the Board of Governors are not subject to the provisions of the Administrative Procedure Act.

3. Page 3, beginning on line 9, delete subsection (a) and insert a new subsection (a) in lieu thereof as follows:

"(a) RECIPROCITY. Attorneys in good standing in the Bar of another state or territory or the District of Columbia, which admits members of the Alaska Bar to the practice of law therein, shall be admitted without examination and otherwise upon substantially the same terms and conditions as are fixed in their respective jurisdictions for the admission of attorneys from Alaska; Provided, however that as a prerequisite to admission to the Alaska Bar the Board shall [MAY] require any such attorneys to take and pass an [A WRITTEN] examination, unless [WHEN IN THE JUDGMENT OF THE BOARD THE FACTS OF ANY PARTICULAR CASE INDICATE THAT] the applicant has (1) passed a state bar examination, (2) engaged in the active practice of law for at least five out of the previous six years before filing the application, excluding time spent in the military service of the United States, (3) is a graduate of a law school accredited by the American Bar Association; provided that ten years active practice of law shall be deemed equivalent to graduation from an accredited law school for the purposes of this subsection and (4) meets the character requirements determined by the Board. [BEST INTERESTS OF THE PUBLIC AND OF THE ALASKA BAR WILL BE SERVED BY FIRST TESTING BY MEANS OF SUCH WRITTEN EXAMINATION SUCH ATTORNEYS' QUALIFICATIONS AND FITNESS TO ENGAGE IN THE PRACTICE OF LAW IN ALASKA.] This proviso shall not be applicable to those attorneys whose applications were completely submitted [FILED WITH THE BOARD] prior to May 29, 1959, but shall be applicable to those attorneys whose applications were or are completed thereafter. [THE EFFECTIVE DATE OF THIS ACT.]"

4. Page 5, line 20: Insert new Sec. 6 and renumber

"Sec. 6. Section 10, Ch. 196, SLA 1955 is amended to read as follows:

Sec. 10. FEES

a. There shall be an annual membership fee for active members which shall not exceed the sum of \$100.00 [\$50.00] payable on or before February first of each year. [PROVIDED, THAT THE MEMBERSHIP FEE FOR THE YEAR 1955 SHALL BE PAYABLE NOT LATER THAN AUGUST FIRST, 1955.] The Board of Governors shall have the power before January first of any year to establish the membership fee for the succeeding year.