

Introduced: 3/31/80  
Referred: Judiciary

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 HOUSE BILL NO. 984

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act continuing the existence of the Alaska Bar  
7 Association and amending the statutes relating to the  
8 practice of law in the state; amending Alaska Bar Rules  
9 2 and 7; and providing for an effective date."

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

11 \* Section 1. AS 08.03.010(c) is amended by adding a new paragraph to  
12 read:

13 (2) Board of Governors of the Alaska Bar Association  
14 (AS 08.08.040) - June 30, 1981.

15 \* Sec. 2. AS 08.08.010 is amended to read:

16 Sec. 08.08.010. CREATION OF ALASKA BAR ASSOCIATION. (a) There is  
17 created an agency [INSTRUMENTALITY] of the state known as the Alaska Bar  
18 Association, referred to in this chapter as the Alaska Bar. The Alaska  
19 Bar shall have a common seal, may sue and be sued, and may, for the  
20 purpose of carrying into effect and promoting the objects of the Alaska  
21 Bar, enter into contracts and acquire, hold, encumber and dispose of  
22 real and personal property.

23 (b) Except as otherwise provided by this chapter, the Alaska Bar  
24 is subject to statutory requirements imposed on state agencies including  
25 but not limited to AS 08.03, AS 24.20.271, AS 24.55, AS 44.62.310,  
26 44.62.312 and AS 44.66.

27 \* Sec. 3. AS 08.08.020 is repealed and re-enacted to read:

28 Sec. 08.08.020. MEMBERS. A person licensed to practice law in the  
29 state may become a member of the Alaska Bar.

1 \* Sec. 4. AS 08.08.040 is amended to read:

2 Sec. 08.08.040. BOARD OF GOVERNORS OF THE ALASKA BAR. (a) There  
3 is [HEREBY] constituted a Board of Governors of the Alaska Bar to be  
4 elected under bylaws adopted [AND REGULATIONS PROMULGATED] by the board.

5 (b) The board consists of six [NINE ACTIVE] members elected by the  
6 [ACTIVE] members of the Alaska Bar and three persons who are appointed  
7 by the governor and who are not attorneys.

8 \* Sec. 5. AS 08.08.050 is amended to read:

9 Sec. 08.08.050. SELECTION [ELECTION] OF THE BOARD. (a) One  
10 member [TWO MEMBERS] of the board shall be elected by and from among the  
11 members of the association resident in the first judicial district; two  
12 [FOUR] members of the board shall be elected by and from among the  
13 members of the association resident in the third judicial district;  
14 one member [TWO MEMBERS] by and from among the members of the associa-  
15 tion resident in the combined area of the second and fourth judicial  
16 districts; and two members [ONE MEMBER] at large from the entire state.  
17 Three members who are not attorneys shall be appointed by the governor  
18 and are subject to confirmation by the legislature in joint session.

19 (b) Members of the Board of Governors shall hold office for three  
20 years and until their successors are elected or appointed and qualified.

21 (c) Three board members shall be selected [ELECTED] annually, on  
22 the following triennial rotation: [.]

23 (1) in the first year, one member shall be appointed, one  
24 member shall be elected at large and one member shall be elected [TWO  
25 MEMBERS] from the third judicial district;

26 (2) in the second year, one member shall be appointed, one  
27 member shall be elected from the combined area of the second and fourth  
28 judicial districts, [ONE MEMBER FROM THE THIRD JUDICIAL DISTRICT,] and  
29 one member shall be elected from the first judicial district; and

1 (3) in the third year, one member shall be appointed, one  
2 member shall be elected at large [FROM THE FIRST JUDICIAL DISTRICT, ONE  
3 MEMBER FROM THE COMBINED AREA OF THE SECOND AND FOURTH JUDICIAL DIS-  
4 TRICTS], and one member shall be elected from the third judicial dis-  
5 trict.

6 \* Sec. 6. AS 08.08.060 is repealed and re-enacted to read:

7 Sec. 08.08.060. ELECTION OF OFFICERS. The members of the Alaska  
8 Bar shall elect their officers annually from the membership of the Board  
9 of Governors.

10 \* Sec. 7. AS 08.08.070 is repealed and re-enacted to read:

11 Sec. 08.08.070. VACANCIES ON THE BOARD. (a) The board shall call  
12 a special election to fill a vacancy in the elected membership of the  
13 board.

14 (b) The governor shall appoint a member to fill a vacancy in the  
15 appointed membership of the board.

16 (c) Vacancies shall be filled for the unexpired term.

17 \* Sec. 8. AS 08.08 is amended by adding a new section to read:

18 Sec. 08.08.075. MEETINGS OF THE BOARD. AS 44.62.310 and 44.62.312  
19 apply to the meetings of the board. Members of the Alaska Bar and the  
20 public shall be given 30 days notice of meetings of the board. Meetings  
21 of the board shall take place in the state.

22 \* Sec. 9. AS 08.08.080 is amended to read:

23 Sec. 08.08.080. POWERS OF BOARD. (a) Except as may be otherwise  
24 provided in this chapter or the Alaska Bar Rules, the board may adopt  
25 reasonable provisions

26 (1) concerning membership and the classification of member-  
27 ship in the Alaska Bar;

28 (2) providing for employees of the Alaska Bar, the time,  
29 place and method of their selection, and their respective powers,

1 duties, terms of office, and compensation;

2 (3) concerning annual and special meetings;

3 (4) concerning the establishment, collection, deposit, in-  
4 vestment, and disbursement of membership and admission fees, penalties,  
5 and all other funds;

6 [(5) PROVIDING FOR THE ORGANIZATION AND GOVERNMENT OF LOCAL  
7 SUBDIVISIONS OF THE ALASKA BAR;]

8 (6) providing for all other matters affecting in any way the  
9 organization and functioning of the Alaska Bar;

10 (7) providing for continuing legal education and for recom-  
11 mendations to the supreme court on certification of a continuing legal  
12 education program;

13 (8) providing for the recommendation to the supreme court of  
14 a program for the certification of attorneys as specialists.

15 (b) The board may

16 (1) approve and recommend to the state supreme court  
17 [ADDITIONAL] rules for promulgation by the court including rules  
18 concerning admission and discipline [AND DEFINING THE PRACTICE OF LAW];

19 (2) adopt reasonable bylaws and regulations consistent with  
20 this chapter and the Alaska Bar Rules;

21 (3) sue in the name of the Alaska Bar in a court of competent  
22 jurisdiction to enjoin a person from doing an act constituting a vio-  
23 lation of this chapter;

24 (4) fix the annual membership fee for [ACTIVE AND INACTIVE]  
25 members.

26 \* Sec. 10. AS 08.08.085 is amended to read:

27 Sec. 08.08.085. ANNUAL REPORT TO LEGISLATURE. (a) The Board of  
28 Governors shall report annually to the judiciary committees of the  
29 legislature on all matters concerning admissions, discipline of members,

1 and disbarment proceedings, except for those matters defined as con-  
2 fidential by court rule.

3 (b) The Board of Governors may recommend changes to this chapter,  
4 to the rules of practice and procedure, and to the provisions of state  
5 law generally in the annual report.

6 \* Sec. 11. AS 08.08 is amended by adding new sections to read:

7 Sec. 08.08.095. THE PRACTICE OF LAW. (a) A person who performs  
8 any of the following acts on behalf of another person with or without  
9 compensation is engaged in the practice of law:

10 (1) appearance in or conduct of litigation or performance of  
11 an act in connection with pending or prospective proceedings before a  
12 court of the state unless otherwise provided by court rule;

13 (2) appearance in or conduct of litigation or performance of  
14 an act in connection with pending or prospective proceedings before an  
15 administrative or other nonjudicial agency established by law for the  
16 resolution of controversies;

17 (3) providing advice relating to the legal rights and respon-  
18 sibilities of a person;

19 (4) preparation of instruments or documents affecting legal  
20 rights; or

21 (5) engaging in an act or practice determined by the courts  
22 of the state to constitute the practice of law.

23 (b) The provisions of (a) of this section do not apply to a person  
24 who performs acts described in (a)(1) - (5) of this section for com-  
25 pensation if the acts are performed as part of the regular conduct of a  
26 business the primary purpose of which is not the practice of law.

27 (c) The practice of law does not include actions by a government  
28 employee who is not an attorney in the course of his employment. The  
29 practice of law includes the activities described in AS 22.05.070(1) -

1 (4).

2 Sec. 08.08.201. ADMINISTRATION OF BAR EXAMINATION. (a) The Board  
3 of Governors shall administer the bar examination under the Alaska Bar  
4 Rules.

5 (b) The Board of Governors may contract with another state or a  
6 testing organization for the preparation and grading of a portion of the  
7 Alaska Bar examination.

8 (c) The Board of Governors may contract with persons experienced  
9 in the administration of bar examinations for advice on the preparation  
10 or grading of the portion of the bar examination prepared under the  
11 direction of the board.

12 (d) The Board of Governors shall establish and maintain standards  
13 for experience or training of persons who administer the portion of the  
14 bar examination prepared under the direction of the board.

15 \* Sec. 12. AS 08.08.205 is amended to read:

16 Sec. 08.08.205. ELIGIBILITY TO TAKE BAR EXAMINATION. Applicants  
17 who have not graduated from a [AN ACCREDITED] law school but are other-  
18 wise qualified may take the bar examination if they have completed a  
19 clerkship in the manner prescribed by AS 08.08.207.

20 \* Sec. 13. AS 08.08.207(a) is amended to read:

21 (a) Every person who desires subsequently to qualify as a general  
22 applicant for admission to the practice of law [ALASKA BAR] without  
23 having been graduated from a [AN APPROVED] law school shall register as  
24 a law clerk as provided by this section. He must be a bona fide resi-  
25 dent of the state and shall present satisfactory proof that he has been  
26 granted a bachelor's degree (other than bachelor of laws) by a college  
27 or university offering the degree on the basis of a four-year course of  
28 study and has successfully completed his first year of studies at a law  
29 school.

1 \* Sec. 14. AS 08.08.207(h) is amended to read:

2 (h) A registered law clerk who has attended [EITHER AN APPROVED OR  
3 A NONAPPROVED] law school may, in the discretion of the university,  
4 receive credit for work done and obtain advanced standing. In no event  
5 will credit be given for fractional parts of semesters or terms, or for  
6 correspondence school work.

7 \* Sec. 15. AS 08.08.207(i) is amended to read:

8 (i) As used in this section

9 (1) "law school" means a law school, whether or not  
10 accredited, approved or meeting the standards of the Council of Legal  
11 Education of the American Bar Association or the Association of American  
12 Law Schools; or a school in Alaska offering a course of study which the  
13 university approves as the equivalent to a year's study in a law school  
14 under this section;

15 (2) "university" means the University of Alaska.

16 \* Sec. 16. AS 08.08.210 is amended to read:

17 Sec. 08.08.210. WHO MAY PRACTICE LAW. (a) No person may engage  
18 in the practice of law in the state unless he is licensed to practice  
19 law in Alaska [AND IS AN ACTIVE MEMBER OF THE ALASKA BAR]. A member of  
20 the bar in good standing in another jurisdiction may appear in the  
21 courts of the state under the rules the supreme court may prescribe.

22 [(b) THE PRACTICE OF LAW SHALL BE DEFINED IN THE ALASKA BAR RULES.]

23 (c) This section and AS 08.08.230 do not apply to the practice of  
24 law for the legislature by a person employed by or under contract with  
25 the legislature who

26 (1) has been employed as a member of its legal staff on or  
27 before September 14, 1976;

28 (2) has engaged in the practice of law on behalf of the  
29 legislature on or before September 14, 1976 and been compensated on a

1 contractual or fee basis; or

2 (3) is employed by or under contract to the legislature and  
3 whose activities would constitute the practice of law under this chapter  
4 [AND UNDER ALASKA BAR RULES], until the results are released of the  
5 third Alaska Bar examination following that person's employment.

6 (d) Employees of the Department of Law whose activities would  
7 constitute the practice of law under this chapter [AND UNDER ALASKA BAR  
8 RULES] are required to obtain a license to practice law in Alaska, no  
9 later than 10 months following the commencement of their employment.

10 \* Sec. 17. AS 08.08.230(a) is amended to read:

11 (a) Any person not [AN ACTIVE MEMBER OF THE ALASKA BAR AND NOT]  
12 licensed to practice law in Alaska who engages in the practice of law  
13 under this chapter or [REPRESENTS HIMSELF AS ENTITLED TO ENGAGE IN THE  
14 PRACTICE OF LAW AS THAT TERM IS DEFINED IN THE ALASKA BAR RULES, OR AN  
15 ACTIVE MEMBER OF THE ALASKA BAR] who wilfully employs such a person  
16 knowing that the [SUCH] person is engaging in the practice of law or  
17 representing himself to be entitled to so engage is guilty of a class A  
18 misdemeanor [AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE  
19 THAN \$5,000, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH].

20 \* Sec. 18. AS 22.05 is amended by adding new sections to read:

21 ARTICLE 2. ATTORNEYS.

22 Sec. 22.05.180. LICENSE FOR THE PRACTICE OF LAW. (a) The annual  
23 fee for a license to engage in the active practice of law in the state  
24 is \$25. The annual fee for inactive practice is \$10 and the annual fee  
25 for members of the judiciary is \$20. Fees are payable to the clerk of  
26 the supreme court. Fees collected by the supreme court under this  
27 section shall be deposited in the general fund.

28 (b) The supreme court may define the active and the inactive  
29 practice of law for the purposes of (a) of this section.

1           Sec. 22.05.190. REGISTER OF LICENSED ATTORNEYS. (a) The clerk of  
2 the supreme court shall maintain a register of each attorney licensed to  
3 practice law in the state.

4           (b) The clerk shall suspend the license of an attorney who is  
5 delinquent in the payment of his annual fee under rules adopted by the  
6 supreme court.

7           (c) The supreme court may adopt by court rule a schedule of penal-  
8 ties for late payments of fees. An attorney suspended under (b) of this  
9 section may be readmitted to practice under the rules of the supreme  
10 court.

11 \* Sec. 19. Section 1(b) of Alaska Bar Rule 2 is amended to read:

12           (b) Be a graduate of a law school [WHICH WAS ACCREDITED OR AP-  
13 PROVED BY THE COUNCIL OF LEGAL EDUCATION OF THE AMERICAN BAR ASSOCIATION  
14 OR THE ASSOCIATION OF AMERICAN LAW SCHOOLS WHEN THE APPLICANT ENTERED OR  
15 GRADUATED] or submit proof that the law course required for graduation  
16 from [SUCH] a law school will be completed and that a degree will be  
17 received as a matter of course before the date of examination.  
18 Graduates of law schools in which the principles of English common law  
19 are taught but which are located outside the United States and beyond  
20 the jurisdiction of the American Bar Association and the Association of  
21 American Law Schools, may qualify for examination upon proof that the  
22 foreign law school from which they graduated meets the American Bar  
23 Association Council of Legal Education Standards for approval;

24 \* Sec. 20. Section 1 of Alaska Bar Rule 7 is amended to read:

25           Section 1. An applicant who has been denied an examination permit  
26 or who has been denied certification to the Supreme Court for admission  
27 to practice shall have the right within thirty days after notice of such  
28 denial to file with the Board a written verified statement of appeal.  
29 Failure timely to file an appeal statement shall constitute waiver of

1 appeal rights. In his statement an applicant shall state all grounds  
2 upon which he intends to rely and may:

3 (a) object to the form of notice from which such appeal is taken  
4 on the ground that it is so indefinite or uncertain that he cannot  
5 reasonably prepare his statement;

6 (b) present new matter on which he relies to establish his eli-  
7 gibility for admission to practice.

8 An applicant who is denied an examination permit or who is denied  
9 certification shall allege facts which, if true, would establish an  
10 abuse of discretion or improper conduct on the part of the Board, the  
11 Executive Director, the Committee or a master. If the allegation in the  
12 verified statement is [ARE] found to be sufficient by the Board, a  
13 hearing shall be granted. A hearing shall be granted to an applicant  
14 denied certification if his score on the bar examination is within five  
15 points of the passing grade of the bar examination.

16 \* Sec. 21. AS 08.03.010(b)(11), AS 08.08.090, 08.08.220 and 08.08.250 are  
17 repealed.

18 \* Sec. 22. Section 3 of Alaska Bar Rule 2 is repealed.

19 \* Sec. 23. AS 08.08.050 as amended by sec. 5 of this Act takes effect at  
20 the first election of members of the Board of Governors of the Alaska Bar  
21 after January 1, 1981. The governor shall appoint one member of the board  
22 each year to replace an elected member whose term expires.

23 \* Sec. 24. Sections 1, 2 and 24 of this Act take effect immediately in  
24 accordance with AS 01.10.070(c).

25 \* Sec. 25. Sections 3 - 23 and 25 of this Act take effect January 1,  
26 1981.

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