

## **Illinois Rules on Licensing Foreign Lawyers as Legal Consultants**

### **Rule 712. Licensing of Foreign Legal Consultants Without Examination**

(a) **General Regulation.** In its discretion the supreme court may license to practice as a foreign legal consultant on foreign and international law, without examination, an applicant who:

(1) has been admitted to practice (or has obtained the equivalent of such admission) in a foreign country, and has engaged in the practice of law of such country, and has been in good standing as an attorney or counselor at law (or the equivalent of either) in such country, for a period of not less than five of the seven years immediately preceding the date of his or her application, provided that admission as a notary or its equivalent in any foreign country shall not be deemed to be the equivalent of admission as an attorney or counselor at law;

(2) possesses the good moral character and general fitness requisite for a member of the bar of this state;

(3) possesses the requisite documentation evidencing compliance with the immigration laws of the United States; and

(4) intends to practice as a legal consultant in the State of Illinois and to maintain an office therefor in the State of Illinois.

(b) **Reciprocity.** In considering whether to license an applicant under this rule, the supreme court may in its discretion take into account whether a member of the bar of the supreme court would have a reasonable and practical opportunity to establish an office for the giving of legal advice to clients in the applicant's country of admission (as referred to in paragraphs (c)(1) and (c)(5) of this rule), if there is pending with the supreme court a request to take this factor into account from a member of the bar of this court actively seeking to establish such an office in that country which raises a serious question as to the adequacy of the opportunity for such a member to establish such an office, or if the supreme court decides to do so on its own initiative.

(c) **Proof Required.** An applicant to be licensed under this rule must file with the supreme court or its designee:

(1) a certificate from the authority in such foreign country having final jurisdiction over professional discipline, certifying as to the applicant's admission to practice and the date thereof and as to his or her good standing as such attorney or counselor at law or the equivalent, together with a duly authenticated English translation of such certificate if it is not in English;

(2) a letter of recommendation from one of the members of the executive body of such authority, or from one of the judges of the highest law court or court of original jurisdiction of such foreign country, together with a duly authenticated English translation of such letter if it is not in English;

(3) evidence of his or her citizenship, educational and professional qualifications, period of actual practice in such foreign country and age;

(4) the affidavits of reputable persons as evidence of the applicant's good moral character and general fitness, substantially as required by Rule 708;

(5) a summary of the laws and customs of such foreign country that relate to the opportunity afforded to members of the bar of the supreme court to establish offices for the giving of legal advice to clients in such foreign country; and

(6) a completed character and fitness registration application in the form prescribed by the Board of Admissions to the Bar and such other evidence of character, qualification and fitness as the supreme court may from time to time require and compliance with the requirements of this subsection.

(d) Waiver. Upon a showing that strict compliance with the provisions of paragraph (c)(1) or (c)(2) of this rule would cause the applicant unnecessary hardship, the supreme court may in its discretion waive or vary the application of such provisions and permit the applicant to furnish other evidence in lieu thereof.

(e) Right to Practice and Limitations on Scope of Practice. A person licensed as a foreign legal consultant under this rule may render legal services and give professional advice within this state only on the law of the foreign country where the foreign legal consultant is admitted to practice. A foreign legal consultant in giving such advice shall not quote from or summarize advice concerning the law of this state (or of any other jurisdiction) which has been rendered by an attorney at law duly licensed under the law of the State of Illinois (or of any other jurisdiction, domestic or foreign). A licensed foreign legal consultant shall not:

(1) appear for a person other than himself or herself as attorney in any court, or before any judicial officer, or before any administrative agency, in this state (other than upon admission in isolated cases pursuant to Rule 707) or prepare pleadings or any other papers or issue subpoenas in any action or proceeding brought in any such court or before any such judicial officer, or before any such administrative agency;

(2) prepare any deed, mortgage, assignment, discharge, lease or any other instrument affecting real estate located in the United States of America;

(3) prepare any will, codicil or trust instrument affecting the disposition after death of any property located in the United States of America and owned by a citizen thereof;

(4) prepare any instrument relating to the administration of decedent's estate in the United States of America;

(5) prepare any instrument or other paper which relates to the marital relations, rights or duties of a resident of the United States of America or the custody or care of the children of such a resident;

(6) render professional legal advice with respect to a personal injury occurring within the United States;

(7) render professional legal advice with respect to United States immigration laws, United States customs laws or United States trade laws;

(8) render professional legal advice on or under the law of the State of Illinois or of the United States or of any state, territory or possession thereof or of the District of Columbia or of any other jurisdiction (domestic or foreign) in which such person is not authorized to practice law (whether rendered incident to the preparation of legal instruments or otherwise);

(9) directly, or through a representative, propose, recommend or solicit employment of himself or herself, his or her partner, or his or her associate for pecuniary gain or other benefit with respect to any matter not within the scope of practice authorized by this rule;

(10) use any title other than "foreign legal consultant" and affirmatively state in conjunction therewith the name of the foreign country in which he or she is admitted to practice (although he or she may additionally identify the name of the foreign or domestic firm with which he or she is associated); or

(11) in any way hold himself or herself out as an attorney licensed in Illinois or as an attorney licensed in any United States jurisdiction.

(f) Disciplinary Provisions. Every person licensed to practice as a foreign legal consultant under this rule shall execute and file with the Illinois Attorney Registration and Disciplinary Commission, in such form and manner as the supreme court may prescribe:

(1) the foreign legal consultant's written commitment to observe the Rules of Professional Conduct, as adopted by the Illinois Supreme Court and as it may be amended from time to time, to the extent applicable to the legal services authorized by subparagraph (e) of this rule;

(2) a duly acknowledged instrument, in writing, setting forth the foreign legal consultant's address in this state and designating the clerk of the supreme court as the foreign legal consultant's agent upon whom process may be served, with like effect as if served personally upon the foreign legal consultant, in any action or proceeding thereafter brought against the foreign legal consultant and arising out of or based upon any legal services rendered or offered to be rendered by the foreign legal consultant within or to residents of this state, whenever after due diligence service cannot be made upon the foreign legal consultant at such address or at such new address in this state as he or she shall have filed in the office of the clerk of the supreme court by means of a duly acknowledged supplemental instrument in writing; and

(3) appropriate evidence of professional liability insurance or other proof of financial responsibility, in such form and amount as the supreme court may prescribe, to assure his or her proper professional conduct and responsibility.

(g) Service of Process. Service of process on the clerk of the supreme court, pursuant to the designation filed as required by Rule 712(f)(2) above, shall be made by personally delivering to and leaving with such clerk, or with a deputy or assistant authorized by the foreign legal consultant to receive such service, at his or her office, duplicate copies of such process together with a fee of \$10. Service of process shall be complete when such clerk has been so served. Such clerk shall promptly send one of such copies to the foreign legal consultant to whom the process is directed, by certified mail, return receipt requested, addressed to such foreign legal consultant at his or her address specified by the foreign legal consultant as aforesaid.

(h) Separate Authority. This rule shall not be deemed to limit or otherwise affect the provisions of Rule 704.

(i) Unauthorized Practice of Law. Any person who is licensed under the provisions of this rule shall not be deemed to have a license to perform legal services prohibited by Rule 712(e) hereof. Any person licensed hereunder who violates the provisions of Rule 712(e) is engaged in the unauthorized practice of law and may be held in contempt of the court. Such person may also be subject to disciplinary proceedings pursuant to Rule 777 and the penalties imposed by section 32-5 of the Criminal Code of 1961, as amended, [FN1] and section 1 of "An Act to revise the law in relation to attorneys and counselors," approved March 28, 1874. [FN2]

### **Rule 713. Applications for Licensing of Foreign Legal Consultants**

(a) Referral to Committee on Character and Fitness.

(1) The Committee on Character and Fitness of the judicial district in which any applicant for a license (pursuant to Rule 712) to practice as a foreign legal consultant resides shall pass upon his or her good moral character and general fitness to practice as a foreign legal consultant. The applicant shall furnish the committee with copies of the affidavits referred to in paragraphs (b)(3), (b)(4) and (b)(5) hereof. Each applicant for a license to practice as a foreign legal consultant shall appear before the committee of his district or some member thereof and shall furnish the committee such evidence of his or her good moral character and general fitness to practice as a foreign legal consultant as in the opinion of the committee would justify his or her being licensed as a foreign legal consultant.

(2) Unless otherwise ordered by the supreme court, no license to practice as a foreign legal consultant shall be granted without a certificate, from the Committee on Character and Fitness for the judicial district in which the applicant resides, certifying that the committee has found that the applicant is of good moral character and general fitness to practice as a foreign legal consultant.

(b) Documents-Affidavits and Other Proof Required. Every applicant for a license to practice as a foreign legal consultant shall file the following additional papers with his or her application:

(1) a certificate from the authority having final jurisdiction over professional discipline in the foreign country in which the applicant was admitted to practice, which shall be signed by a responsible official or one of the members of the executive body of such authority and shall be attested under the hand and seal, if any, of the clerk of such authority, and which shall certify:

(i) as to the authority's jurisdiction in such matters;

(ii) as to the applicant's admission to practice in such foreign country and the date thereof and as to his or her good standing as an attorney or counselor at law or the equivalent therein; and

(iii) as to whether any charge or complaint has ever been filed against the applicant with such authority, and, if so, the substance of each such charge or complaint and the disposition thereof;

(2) a letter of recommendation from one of the members of the executive body of such authority or from one of the judges of the highest law court or court of general original jurisdiction of such foreign country, certifying

to the applicant's professional qualifications, together with a certificate under the hand and seal, if any, of the clerk of such authority or of such court, as the case may be, attesting to the office held by the person signing the letter and the genuineness of his signature;

(3) affidavits as to the applicant's good moral character and general fitness to practice as a foreign legal consultant from three reputable persons residing in this state and not related to the applicant, two or whom shall be practicing Illinois attorneys;

(4) affidavits from two attorneys or counselors at law or the equivalent admitted in and practicing in such foreign country, stating the nature and extent of their acquaintance with the applicant and their personal knowledge as to the nature, character and extent of the applicant's practice, and as to the applicant's good standing as an attorney or counselor at law or the equivalent in such foreign country, and the duration and continuity of such practice;

(5) the National Conference of Bar Examiners questionnaire and affidavit;

(6) documentation in duly authenticated form evidencing that the applicant is lawfully entitled to reside and be employed in the United States of America pursuant to the immigration laws thereof;

(7) such additional evidence as the applicant may see fit to submit with respect to his or her educational and professional qualifications and his or her good moral character and general fitness to practice as a foreign legal consultant;

(8) a duly authenticated English translation of every paper submitted by the applicant which is not in English; and

(9) a duly acknowledged instrument designating the clerk of the supreme court the applicant's agent for service of process as provided in Rule 712(f)(2).

(c) University and Law School Certificates. A certificate shall be submitted from each university and law school attended by the applicant, setting forth the information required by forms which shall be provided to the applicant for that purpose.

(d) Exceptional Situations. In the event that the applicant is unable to comply strictly with any of the foregoing requirements, the applicant shall set forth the reasons for such inability in an affidavit, together with a statement showing in detail the efforts made to fulfill such requirements.

(e) Authority of Committee on Character and Fitness to Require Additional Proof. The Committee on Character and Fitness may in any case require the applicant to submit such additional proof or information as it may deem appropriate.

(f) Filing. Every application for a license as a foreign legal consultant, together with all the papers submitted thereon, shall upon its final disposition be filed in the office of the clerk of the supreme court.

(g) Fees of Applicants. Each applicant for a license to practice as a foreign legal consultant on foreign or international law shall pay in advance a fee of \$800.

All fees shall be paid to the treasurer of the Board of Admissions to the Bar to be held by the treasurer subject to the order of the court.

(h) Undertaking. Prior to taking custody of any money, securities (other than unindorsed securities in registered form), negotiable instruments, bullion, precious stones or other valuables, in the course of his or her practice as a foreign legal consultant, for or on behalf of any client domiciled or residing in the United States, every person licensed to practice as a foreign legal consultant shall obtain, and shall maintain in effect for the duration of such custody, an undertaking issued by a duly authorized surety company, and approved by a justice of the supreme court, to assure the faithful and fair discharge of his or her duties and obligations arising from such custody. The undertaking shall be in an amount not less than the amount of any such money, or the fair market value of any such property other than money, of which the foreign legal consultant shall have custody, except that the supreme court may in any case in its discretion for good cause direct that such undertaking shall be in a greater or lesser amount. The undertaking or a duplicate original thereof shall be promptly filed by the foreign legal consultant with the clerk of the supreme court.

#### **Rule 777. Registration of, and Disciplinary Proceedings Relating to, Foreign Legal Consultants**

(a) Supervision and Control of Foreign Legal Consultants. The registration of, and disciplinary proceedings affecting, persons who are licensed (pursuant to Rule 712) to practice as foreign legal consultants shall be subject to the supreme court rules (Rule 751 et seq.) and to the rules of the Attorney Registration and Disciplinary Commission relating to the registration and discipline of attorneys. As used in those rules, the terms "attorney" and "attorney and counselor at law" shall include foreign legal consultants except to the extent that those rules concern matters unrelated to the permissible activities of foreign legal consultants.

(b) Issuance of Subpoenas by Clerk Relating to Investigation of Foreign Legal Consultants. Upon application by the Administrator or an Inquiry Board, disclosing that the Administrator or Inquiry Board is conducting an

investigation of either professional misconduct on the part of a foreign legal consultant or the unlawful practice of law by a foreign legal consultant, or of a Hearing Board that it is conducting a hearing relating thereto, or upon application by a respondent, the clerk of this court shall be empowered to issue subpoenas for the attendance of witnesses and the production of books and papers before the Administrator or Inquiry Board or Hearing Board.

(c) Issuance of Subpoenas by Clerk Relating to Investigation of Wrongfully Representing Himself as a Foreign Legal Consultant. Upon application by the Administrator or an Inquiry Board disclosing that it has reason to believe that a person, firm or corporation other than a foreign legal consultant is unlawfully practicing or assuming to practice law as a foreign legal consultant and that it is conducting an investigation thereof, or of a Hearing Board that it is conducting a hearing relating thereto, or upon application by any respondent the clerk of this court shall be empowered to issue subpoenas for the attendance of witnesses and production of books and papers before the Administrator or Inquiry Board or Hearing Board.

(d) Taking Evidence. The Administrator or Inquiry Board conducting an investigation and any Hearing Board conducting a hearing pursuant to this rule is empowered to take and transcribe the evidence of witnesses, who shall be sworn by any person authorized by law to administer oaths.

(e) Disciplinary Procedure. Disciplinary proceedings and proceedings under Rules 757, 758, 759 or 770 against any foreign legal consultant shall be initiated and conducted in the manner and by the same agencies as prescribed by law for such proceedings against those admitted as attorneys.