

CHAPTER 16. FOREIGN LEGAL CONSULTANCY RULE

RULE 16-1.1 PURPOSE

The purpose of this chapter is to permit a person who is admitted to practice in a foreign country as an attorney, counselor at law, or the equivalent to act as a foreign legal consultant in the state of Florida. This chapter authorizes an attorney licensed to practice law in 1 or more foreign countries to be certified by the Supreme Court of Florida, without examination, to render services in this state as a legal consultant regarding the laws of the country in which the attorney is admitted to practice.

Added July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252).

RULE 16-1.2 GENERAL CERTIFICATION REGULATIONS

The Supreme Court of Florida may certify to practice as a foreign legal consultant an applicant who:

(a) is a member in good standing of a recognized legal profession in a foreign country, the members of which are admitted to the practice as lawyers or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or public authority;

(b) has engaged in the practice of law of a foreign country for a period of not less than 3 of the 5 years immediately preceding the application for certification under this chapter and has remained in good standing as a lawyer, counselor at law, or the equivalent throughout that period;

(c) has not been disciplined for professional misconduct by the bar or courts of any jurisdiction within 7 years immediately preceding the application for certification under this chapter and is not the subject of any disciplinary proceeding or investigation pending at the date of application for certification under this chapter;

(d) has not been denied admission to practice before the courts of any jurisdiction based on character or fitness during the 10-year period preceding application for certification under this chapter; and

(e) maintains an office in the state of Florida for the rendering of services as a foreign legal consultant.

Added July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252), amended November 9, 2017, effective February 1, 2018 (SC16-1961).

RULE 16-1.3 ACTIVITIES

(a) Rendering Legal Advice. A person certified as a foreign legal consultant under this chapter may provide legal services in the state of Florida only when these services:

(1) are limited to those regarding the laws of the foreign country in which that person is admitted to practice as a lawyer, counselor at law, or the equivalent;

(2) do not include any activity or any service constituting the practice of the laws of the United States, the state of Florida, or any other state, commonwealth, or territory of the United States or the District of Columbia including, but not limited to, the restrictions that the person will not:

(A) appear for another person a lawyer in any court or before any magistrate or other judicial officer or before any federal, state, county, or municipal governmental agency, quasi-judicial, or quasi-governmental authority in the state of Florida, or prepare pleadings or any other papers in any action or proceedings brought in any of these courts, or before any of these judicial officers, except as authorized in any rule of procedure relating to admission pro hac vice, or pursuant to administrative rule;

(B) prepare any deed, mortgage, assignment, discharge, lease, agreement of sale, or any other instrument affecting title to real property located in the United States, or personal property located in the United States, except where the instrument affecting title to such property is governed by the law of a jurisdiction in which the foreign legal consultant is admitted to practice as a lawyer, counselor at law, or the equivalent;

(C) prepare any will or trust instrument affecting the disposition of any property located in the United States and owned by a United States resident nor prepare any instrument relating to the administration of a decedent's estate in the United States;

(D) prepare any instrument regarding the marital relations, rights, or duties of a resident of the United States or the custody or care of the children of a United States resident;

(E) give legal advice on the law of the state of Florida, the United States, or any other state, subdivision, commonwealth, or territory of the United States, or the District of Columbia (whether incident to the preparation of a legal instrument or otherwise); or

(F) provide any legal services without executing a written agreement with the client that specifies that the foreign legal consultant is not admitted to practice law in the state of Florida nor licensed to advise on the laws of the United States or any other state, commonwealth, territory, or the District of Columbia, unless so licensed, and that the practice of the foreign legal consultant is limited to the laws of the foreign country where the person is admitted to practice as a lawyer, counselor at law, or the equivalent.

(b) Representing Status as Member of The Florida Bar. Foreign legal consultants certified to render services under this chapter must not represent that they are admitted to The Florida Bar or licensed as a lawyer or foreign legal consultant in another state, commonwealth, territory, or the District of Columbia, or as a lawyer, counselor at law, or the equivalent in a foreign country, unless so licensed. Persons certified under this chapter must not use any title other than “Foreign Legal Consultant, Not Admitted to Practice Law in Florida,” although that person’s authorized title and firm name in the foreign country in which the person is admitted to practice as a lawyer, counselor at law, or the equivalent may be used if the title, firm name, and the name of the foreign country are stated together with the above-mentioned designation.

Foreign legal consultants certified under this chapter must provide clients with a letter disclosing the extent of professional liability insurance coverage maintained by the foreign legal consultant, if any, as well as an affirmative statement advising the client that any client aggrieved by the foreign legal consultant will not have access to the Clients’ Security Fund of The Florida Bar. The letter must further include the list of activities that the foreign legal consultant certified under this chapter is prohibited from engaging in, as set out in rule 16-1.3(a)(2)(A)-(F).

Added July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252), amended November 9, 2017, effective February 1, 2018 (SC16-1961).

RULE 16-1.4 APPLICATION

An applicant under this chapter must file an application with the International Law Section of The Florida Bar that must include:

(a) a certificate from the professional body or public authority having final jurisdiction over professional discipline in the foreign country in which the applicant is admitted certifying the applicant's admission to practice, the date of admission, good standing as a lawyer or counselor at law or the equivalent and a duly authenticated English translation of the certificate if it is not in English;

(b) a letter of recommendation from 1 of the members of the executive body of the professional authority or public body or from 1 of the judges of the highest court of law of the foreign country and an authenticated English translation of the letter if it is not in English;

(c) a sworn statement by the applicant that the applicant:

(1) has read and is familiar with the Rules of Professional Conduct as adopted by the Supreme Court of Florida and will abide by, and be subject to, their provisions;

(2) submits to the jurisdiction of the Supreme Court of Florida for disciplinary purposes; and

(3) will comply with the requirements of the rule regarding disclosure;

(d) a written commitment to notify The Florida Bar of any resignation or revocation of the foreign legal consultant's admission to practice in the foreign country of admission, or in any other state or jurisdiction in which the consultant has been licensed as a lawyer, counselor at law, or equivalent or as a foreign legal consultant, or of any censure, suspension, or expulsion in respect of the admission;

(e) a notarized document setting forth the applicant's address within the state of Florida and designating the secretary of state as the person's agent on whom process may be served as if served personally on the

applicant pursuant to applicable Florida law, in any action or proceeding brought against the applicant arising out of or based on any legal services offered or provided by the applicant within or to the residents of the state of Florida, when service cannot be made on the applicant at the address after due diligence; and

(f) other evidence of the nature and extent of the applicant's educational and professional qualifications, good moral character, general fitness, and compliance with the general certification regulation set forth elsewhere in this chapter.

Added July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252). Amended Sept. 24, 1998, effective Oct. 1, 1998 (718 So.2d 1179), amended November 9, 2017, effective February 1, 2018 (SC16-1961).

RULE 16-1.5 WITHDRAWAL OR TERMINATION OF CERTIFICATION

Permission to perform services under this chapter ceases immediately on the earliest of the following events:

(a) the filing of a notice by the Supreme Court of Florida stating that permission to perform services under this chapter has been revoked, a copy of which will be mailed by the clerk of the court to The Florida Bar and to the foreign legal consultant, after which the foreign legal consultant has 15 days to request reinstatement for good cause;

(b) the foreign country in which the foreign legal consultant is admitted to practice discontinues having a professional disciplinary system for lawyers that is generally consistent with that of The Florida Bar; or

(c) the failure of the foreign legal consultant to comply with any applicable provisions of this chapter.

Added July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252), amended November 9, 2017, effective February 1, 2018 (SC16-1961).

RULE 16-1.6 DISCIPLINE

(a) Discipline by Florida Courts. Each person certified to practice as a foreign legal consultant under this chapter is expressly subject to the Rules of Professional Conduct and to the disciplinary jurisdiction of the Supreme Court of Florida and the other courts of this state.

(b) Withdrawal of Certification. In addition to any appropriate proceedings and discipline that may be imposed by The Florida Bar or the Supreme Court of Florida under the Rules Regulating The Florida Bar, the Supreme Court of Florida may withdraw certification.

Added July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252), amended November 9, 2017, effective February 1, 2018 (SC16-1961).

RULE 16-1.7 ANNUAL SWORN STATEMENT

A person certified under this chapter as a foreign legal consultant must submit annually to The Florida Bar in the manner required by The Florida Bar:

(a) a sworn statement attesting to the foreign legal consultant's good standing as a lawyer, counselor at law, or the equivalent in the foreign country in which the person is licensed to practice; that the person intends to continue practicing as a foreign legal consultant in the state of Florida; that the person continues to meet all eligibility requirements under this chapter; that the person limits the person's practice to the activities permitted under this chapter; and that the person currently maintains an office in the state of Florida to provide legal services as a foreign legal consultant; and

(b) a renewal fee equivalent to annual membership fees paid by members of The Florida Bar eligible to practice law.

Added November 9, 2017, effective February 1, 2018 (SC16-1961).