NOTICE OF COMMENT PERIOD

The Nebraska State Bar Association proposed amendments to Neb. Ct. R. § 3-803 that would create a new membership class for attorneys.

The Nebraska Supreme Court invites those interested to comment on the proposed rule amendments. Anyone desiring to submit a public comment for the Supreme Court's consideration should do so via email to joshua.shasserre@nejudicial.gov, with the following text listed in the email subject line: **Neb. Ct. R. § 3-803.** Comments will be accepted through April 1, 2027.

The full text of the proposed amendments is available below. To obtain a paper copy, please call the Clerk's Office at 402-471-3731.

CHAPTER 3: ATTORNEYS AND THE PRACTICE OF LAW

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Article 8: State Bar Association; Creation; Control; and Regulation.

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§ 3-803. Membership.

(A) Requirements and Records of Membership.

(1) All persons who, on the date that these rules go into effect, are admitted to the practice of law in this State, by order of the Nebraska Supreme Court, shall constitute the members of this Association, subject to due compliance with the requirements for membership hereinafter set forth, including payment of mandatory membership assessments as may be fixed by the Nebraska Supreme Court.

(2) The Administrator of Attorney Services Division, who shall be an employee of the Nebraska Supreme Court, shall maintain all records of membership of the Association and perform all other duties and responsibilities required by the Supreme Court and these rules.

(B) Classes. Members of this Association shall be divided into ~~five~~ six classes, namely; Active Members~~,~~; Inactive members~~,~~; Uncompensated, Pro Bono members; Disability Inactive members~~,~~; Law Student members~~,~~; and Emeritus members.

(1) All members who are licensed to engage in the active practice of law in the State of Nebraska, who do not qualify for and apply for Inactive membership or Uncompensated, Pro Bono membership status, and who are not Law Student members, shall be Active members.

(2) Any member who is not actively engaged in the practice of law in the State of Nebraska, or who is a nonresident of the State of Nebraska and not actively engaged in the practice of law in Nebraska, and who is not an Emeritus member, may, if he or she so elects, be placed in Inactive membership status. In the event the member has an impairment which prevents an active law practice, the member may apply for Disability Inactive Status membership. See Neb. Ct. R. § 3-311(C). A member granted such status shall not be required to pay annual inactive dues during the period of disability. The application and supporting information shall be confidential pursuant to § 3-318(D)(2). An order granting the application shall be public pursuant to § 3-318(D)(2).

A member desiring to be placed in any Inactive membership status shall file a written application therefor with the Administrator of Attorney Services Division and, if otherwise qualified, shall be placed in such inactive status classification. No Inactive members shall practice law in Nebraska, or vote or hold office in this Association. Any Inactive member may, on filing application with the Administrator of Attorney Services Division and upon payment of the required fees and dues, and compliance with such requirements as may be imposed by the Supreme Court to show fitness to engage in the active practice of law in this State as provided by § 3-803(F), become an Active member. The State Bar Commission shall conduct a review of the member's character and fitness and make a recommendation to the Court evincing the member's fitness to become an Active member. (Appendix A). Members on disability inactive status shall apply for reinstatement as provided in § 3-311(G).

(3) Any member who attained the age of 75 years of age during the dues year being billed or has been actively engaged in the practice of law in the State of Nebraska for 50 years or more during the dues year being billed may, if he or she so elects, be placed in an Emeritus membership status. A member desiring to be placed in an Emeritus membership status shall file written application therefor with the Administrator of Attorney Services Division and, if otherwise qualified, shall be placed in the Emeritus status classification. A member electing Emeritus classification shall not be required to pay membership dues to this Association. No Emeritus member shall practice law in Nebraska, or vote or hold office in this Association. Any Emeritus member may, on filing application with the Administrator of Attorney Services Division and upon payment of the required dues and compliance with the requirements as may be imposed by the Supreme Court to show fitness to engage in the active practice of law in this State, become an Active member.

(4) To serve as an Uncompensated, Pro Bono member, the member must be authorized by the Supreme Court after completing an application, which shall be renewed annually, certifying that the member:

(a) Has previously been an Active, Emeritus, or Inactive member in good standing in Nebraska and is in good standing in all other states or jurisdictions in which the member is admitted to practice;

(b) Has not previously voluntarily surrendered his or her license under § 3-315;

(c) Has no record of discipline in the last three years and has no pending or unresolved investigations in this State or in any other state, territory, or the District of Columbia;

(d) Agrees to abide by the Nebraska Rules of Professional Conduct and to submit to the disciplinary jurisdiction of the Nebraska Supreme Court and Nebraska Counsel for Discipline;

(e) Shall immediately disclose any disciplinary complaint or charges in Nebraska to the approved legal services provider;

(f) Shall neither request nor accept compensation of any kind or receive any other direct or indirect pecuniary gain for the legal services to be rendered under this chapter with the exception of reimbursement for actual, reasonable, and necessary expenses incurred while performing legal services through an approved legal service organization;

(g) Shall complete at least three (3) hours of annual Mandatory Continuing Legal Education [MCLE], either in person or by remote means, one of which shall be in the area of ethics/professional responsibility;

(h) Shall provide legal services exclusively under the supervision of an approved legal service organization and not otherwise engage in activities or legal services that would require status as an Active member;

(i) Shall not represent himself or herself to be an active member of the Nebraska State Bar Association; and

(j) Understands that his or her status as an Uncompensated, Pro Bono member may be revoked if the Approved Legal Service organization withdraws its supervision. Upon the event of such a withdrawal, the Approved Legal Services organization shall immediately notify the Clerk of the Supreme Court that supervision will cease.

(k) Understands that his or her status as an Uncompensated, Pro Bono member may be revoked when grounds for discipline are found to exist under Neb. Ct. R. § 3-301 et. seq., or upon failure to comply with any of the requirements listed in this paragraph above.

(l) Understands that his or her status may be terminated by the Court at any time without prior notice and without any order showing of cause.

(5) An Uncompensated, Pro Bono member, when acting under the general supervision of an Active member who is employed by, works for, or volunteers for an Approved Legal Service Organization, may engage in any activity necessary to resolve a legal matter for a client, including giving legal advice, preparing or filing pleadings or other documents, and appearing before a court or tribunal. If preparing pleadings or other documents to be filed in any court or before any administrative tribunal, then such documents must include the attorney's status as

Uncompensated, Pro Bono member, as well as the name of the Approved Legal Services Organization.

(6) To qualify as an Approved Legal Services Organization, the organization must seek approval from the Supreme Court by first filing an application with the Clerk of the Nebraska Supreme Court that shall be renewed annually. The application must contain the following information:

(a) Verification that it provides free or reduced fee legal services to individuals in civil cases;

(b) Disclosure of the criteria used to determine the eligibility for potential new legal clients;

(c) A description of the pro bono civil legal services provided by said organization;

(d) Verification that it maintains professional liability insurance for all Uncompensated, Pro Bono members who provide pro bono legal services through that organization;

(e) Verification that it provides general support, supervision, and CLE for each Uncompensated, Pro Bono member and a verification that it employs at least one "supervising attorney" who is an Active member in good standing and who supervises Uncompensated, Pro Bono member(s);

(f) Verification that the organization will not compensate any Uncompensated, Pro Bono member with the exception of reimbursement for expenses and mileage incurred while providing legal services when such expenses and mileage are actual, reasonable, and necessary; and

(g) Acknowledgment that the organization may apply for and receive court-awarded attorney fees for services which were provided by a Uncompensated, Pro Bono member, and that the entirety of the proceeds must be disbursed to the organization and no portion of any court-awarded fees may be disbursed or remunerated to the Uncompensated, Pro Bono member.

(47) Except for the right reserved by law to litigants to prosecute or defend a cause in person, or as provided elsewhere in these rules, no person other than an Active member of this Association shall engage in the practice of law in this State, or in any manner hold himself or herself out as authorized or qualified to practice law in this State. Any court in this State may, on motion and upon such person taking the oath required by Neb. Rev. Stat. § 7-104, allow a member of the Bar of any other state or jurisdiction, in good standing therein, to appear and participate in any particular action or proceeding then pending before such court (for purpose of such business only), upon it further being made to appear to the court, by written showing filed therein, that such person has associated with and is appearing in such action with an Active member of this Association upon whom service may be made in all matters connected with said action, with same effect as if personally made on such foreign attorney in this State; provided, regularly licensed practicing attorneys of other states, the laws of which permit practice in their courts of attorneys from this State, without a local attorney being associated with such attorneys, shall not be required to have an Active member of this Association associated with them in such action. (See Neb. Rev. Stat. § 7-103.)

(~~5~~8) Nothing in these rules shall be construed to bar any Active member from the practice of law pursuant to the provisions of any rules of the Supreme Court authorizing the practice of law by a professional service corporation or a limited liability organization, subject to the limitations provided by such rules.

(~~6~~9) In order to make information available to the public about the financial responsibility of each active member of this Association for professional liability claims, each such member shall, upon admission to the Bar, and as part of each application for renewal thereof, submit the certification required by this rule. For purposes of this rule, professional liability insurance means:

(a) The insurance shall insure the member against liability imposed upon the member arising out of a professional act, error, or omission in the practice of law.

(b) Such insurance shall insure the member against liability imposed upon the member by law for damages arising out of the professional acts, errors, and omissions of all nonprofessional employees employed by the member.

(c) The policy may contain reasonable provisions with respect to policy periods, territory, claims, conditions, exclusions, and other matters.

(d) The policy may provide for a deductible or self-insured retained amount and may provide for the payment of defense or other costs out of the stated limits of the policy.

(e) A professional act, error, or omission is considered to be covered by professional liability insurance for the purpose of this rule if the policy includes such act, error, or omission as a covered activity, regardless of whether claims previously made against the policy have exhausted the aggregate top limit for the applicable time period or whether the individual claimed amount or ultimate liability exceeds either the per claim or aggregate top limit.

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(D) Mandatory Membership Assessments.

(1) Payment of Assessments. Each member shall pay mandatory membership assessments for each calendar year from January 1 to December 31 following, payable in advance on or before January 20 of each year, in such amounts as may be fixed by the Supreme Court pursuant to Neb. Ct. R. §§ 3-100(B), 3-301(E), and 3-1010(B). All such assessments due or paid after April 1, 2014, shall be paid to the Administrator of Attorney Services Division and shall be used for the administration and enforcement of the regulation of the practice of law by the Court. Beginning with the Mandatory Membership Assessments due for and after 2015, all payments shall be made through the Court's on-line system. Different classifications of assessments may be established for Active, Inactive, and Law Student members and for those members who have been admitted

to the Bar of any State or other jurisdiction for a period of less than 5 years and for those members who are serving in the Armed Forces of the United States, while so serving. Members newly admitted to this Association shall receive a complimentary membership for the remainder of the current calendar year. The annual mandatory membership assessments beginning calendar year 2014 shall be as follows:

Membership Class	**§ 3-100(B) (Adm.)**	**§ 3-301(E) (Discipline)**	**§ 3-1010(B) (UPL)**	**Total**
Regular Active*	$25.00	$60.00	$13.00	$98.00
Junior Active**	$25.00	$60.00	$13.00	$98.00
Senior Active***	$25.00	$60.00	$13.00	$98.00
Judicial Active****	$25.00	$60.00	$13.00	$98.00
Military Active*****	0	0	0	0
Regular Inactive	$12.50	$30.00	$6.50	$49.00
Uncompensated, Pro Bono	0	0	0	0
Emeritus Inactive	0	0	0	0

* (Members who have been admitted to the Bar of any State or other jurisdiction for more than 4 calendar years following the calendar year of admission.)

** (Members who have been admitted to the Bar of any State or other jurisdiction for 4 or fewer calendar years following the calendar year of admission.)

*** (Members 75 years of age or older during the assessments year being billed.)

**** (Members who serve in an active (nonretired) capacity on a trial or appellate bench at the federal or state level or in the Workers' Compensation Court.)

***** (Attorneys who are on continuous Active Military Service under title 10 or title 32 of the U.S. Code or State Active Duty under the jurisdiction of any state or territory of the United States at the beginning of any calendar year shall be exempt from payment of assessments for such year upon submitting to the Administrator of Attorney Services Division, prior to the date of delinquency provided for in this Article, satisfactory proof that he or she is so engaged; upon receipt of such proof, the Administrator of Attorney Services Division shall issue proof of membership status to the member under the classification held by the member prior to his or her induction in the service and shall cause the records of this Association to show that such proof was issued without payment of dues.)

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