**1788-S.E AMS LAW S3321.1 - NOT FOR FLOOR USE**

**ESHB 1788** - S COMM AMD

By Committee on Law & Justice

**ADOPTED 04/10/2019**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  A new section is added to chapter 2.44 RCW to read as follows:

The legislature recognizes the inherent plenary authority of the Washington state supreme court to regulate court-related functions, including the practice of law and the administration of justice. The legislature further recognizes that the Washington state supreme court has commissioned a work group to undertake a review of the structure of the Washington state bar association. Because the court may conclude that it is necessary or desirable to make changes that may be inconsistent with the provisions of the 1933 state bar act, the legislature intends to preserve the existing state bar association but repeal provisions of the act that may be interpreted as limiting the court's authority to make structural or governance changes that the court determines to be necessary or desirable.

**Sec.**  RCW 2.48.010 and 1933 c 94 s 2 are each reenacted and amended to read as follows:

There is ((~~hereby~~)) created ((~~as~~)) an agency of the state((~~, for the purpose and with the powers hereinafter set forth, an association~~)) within the judicial branch to be known as the Washington state bar association((~~, hereinafter designated as the state bar, which association shall~~)) or another name as designated by the supreme court. The supreme court may provide for (1) the powers, governance, and operation of the association, including the establishment of fees sufficient to make the association self-sufficient; (2) the practice of law; and (3) the administration of justice. The supreme court may provide that the association have a common seal and may sue and be sued, and ((~~which~~)) may, for the purpose of carrying into effect and promoting the objects of ((~~said~~)) the association, enter into contracts and acquire, hold, encumber, and dispose of such real and personal property as is necessary ((~~thereto~~)). If the supreme court delegates responsibilities for governance of the association to a board, committee, or other group, a majority of the members of such board, committee, or group must be subject to election by the membership of the association.

**Sec.**  RCW 2.48.180 and 2003 c 53 s 2 are each amended to read as follows:

(1) As used in this section:

(a) "Legal provider" means ((~~an active member in good standing of the state bar, and any other~~)) a person authorized by the Washington state supreme court to engage in full or limited practice of law;

(b) "Nonlawyer" means a person to whom the Washington supreme court has granted a limited authorization to practice law but who practices law outside that authorization, and a person who is not ((~~an active member in good standing of the state bar, including persons who are disbarred or suspended from membership~~)) authorized by the Washington state supreme court to engage in full or limited practice of law;

(c) "Ownership interest" means the right to control the affairs of a business, or the right to share in the profits of a business, and includes a loan to the business when the interest on the loan is based upon the income of the business or the loan carries more than a commercially reasonable rate of interest.

(2) The following constitutes unlawful practice of law:

(a) A nonlawyer practices law, or holds himself or herself out as entitled to practice law;

(b) A legal provider holds an investment or ownership interest in a business primarily engaged in the practice of law, knowing that a nonlawyer holds an investment or ownership interest in the business;

(c) A nonlawyer knowingly holds an investment or ownership interest in a business primarily engaged in the practice of law;

(d) A legal provider works for a business that is primarily engaged in the practice of law, knowing that a nonlawyer holds an investment or ownership interest in the business; or

(e) A nonlawyer shares legal fees with a legal provider.

(3)(a) Unlawful practice of law is a crime. A single violation of this section is a gross misdemeanor.

(b) Each subsequent violation of this section, whether alleged in the same or in subsequent prosecutions, is a class C felony punishable according to chapter 9A.20 RCW.

(4) Nothing contained in this section affects the power of the courts to grant injunctive or other equitable relief or to punish as for contempt.

(5) Whenever a legal provider or a person licensed by the state in a business or profession is convicted, enjoined, or found liable for damages or a civil penalty or other equitable relief under this section, the plaintiff's attorney shall provide written notification of the judgment to the appropriate regulatory or disciplinary body or agency.

(6) A violation of this section is cause for discipline and constitutes unprofessional conduct that could result in any regulatory penalty provided by law, including refusal, revocation, or suspension of a business or professional license, or right or admission to practice. Conduct that constitutes a violation of this section is unprofessional conduct in violation of RCW 18.130.180.

(7) In a proceeding under this section it is a defense if proven by the defendant by a preponderance of the evidence that, at the time of the offense, the conduct alleged was authorized by the rules of professional conduct or the admission to practice rules, or Washington business and professions licensing statutes or rules.

(8) Independent of authority granted to the attorney general, the prosecuting attorney may petition the superior court for an injunction against a person who has violated this chapter. Remedies in an injunctive action brought by a prosecuting attorney are limited to an order enjoining, restraining, or preventing the doing of any act or practice that constitutes a violation of this chapter and imposing a civil penalty of up to five thousand dollars for each violation. The prevailing party in the action may, in the discretion of the court, recover its reasonable investigative costs and the costs of the action including a reasonable attorney's fee. The degree of proof required in an action brought under this subsection is a preponderance of the evidence. An action under this subsection must be brought within three years after the violation of this chapter occurred.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1)RCW 2.48.020 (First members) and 1933 c 94 s 3;

(2)RCW 2.48.021 (New members) and 1933 c 94 s 4;

(3)RCW 2.48.030 (Board of governors) and 1982 1st ex.s. c 30 s 1, 1972 ex.s. c 66 s 1, & 1933 c 94 s 5;

(4)RCW 2.48.035 (Board of governors—Membership—Effect of creation of new congressional districts or boundaries) and 1982 1st ex.s. c 30 s 2;

(5)RCW 2.48.040 (State bar governed by board of governors) and 1933 c 94 s 6;

(6)RCW 2.48.050 (Powers of governors) and 1933 c 94 s 7;

(7)RCW 2.48.060 (Admission and disbarment) and 1933 c 94 s 8;

(8)RCW 2.48.070 (Admission of veterans) and 1945 c 181 s 1;

(9)RCW 2.48.080 (Admission of veterans—Establishment of requirements if in service) and 2011 c 336 s 63 & 1945 c 181 s 2;

(10)RCW 2.48.090 (Admission of veterans—Establishment of requirements if discharged) and 2011 c 336 s 64 & 1945 c 181 s 3;

(11)RCW 2.48.100 (Admission of veterans—Effect of disability discharge) and 1945 c 181 s 4;

(12)RCW 2.48.110 (Admission of veterans—Fees of veterans) and 1945 c 181 s 5;

(13)RCW 2.48.130 (Membership fee—Active) and 1957 c 138 s 1, 1953 c 256 s 1, & 1933 c 94 s 9;

(14)RCW 2.48.140 (Membership fee—Inactive) and 1955 c 34 s 1 & 1933 c 94 s 10;

(15)RCW 2.48.150 (Admission fees) and 2011 c 336 s 65 & 1933 c 94 s 11;

(16)RCW 2.48.160 (Suspension for nonpayment of fees) and 2011 c 336 s 66 & 1933 c 94 s 12;

(17)RCW 2.48.166 (Admission to or suspension from practice—Noncompliance with support order—Rules) and 1997 c 58 s 810;

(18)RCW 2.48.170 (Only active members may practice law) and 2011 c 336 s 67 & 1933 c 94 s 13;

(19)RCW 2.48.190 (Qualifications on admission to practice) and 1987 c 202 s 107 & 1921 c 126 s 4;

(20)RCW 2.48.210 (Oath on admission) and 2013 c 23 s 1 & 1921 c 126 s 12;

(21)RCW 2.48.220 (Grounds of disbarment or suspension) and 2011 c 336 s 68, 1921 c 126 s 14, & 1909 c 139 s 7; and

(22)RCW 2.48.230 (Code of ethics) and 1921 c 126 s 15.

NEW SECTION. **Sec.**  (1) RCW 2.48.010 is recodified as a section in chapter 2.04 RCW.

(2) RCW 2.48.180 and RCW 2.48.200 are each recodified as sections in chapter 2.44 RCW.

NEW SECTION. **Sec.**  This act takes effect July 1, 2020."

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**ADOPTED 04/10/2019**

On page 1, line 1 of the title, after "association;" strike the remainder of the title and insert "amending RCW 2.48.180; reenacting and amending RCW 2.48.010; adding new sections to chapter 2.44 RCW; adding a new section to chapter 2.04 RCW; recodifying RCW 2.48.010, 2.48.180, and 2.48.200; repealing RCW 2.48.020, 2.48.021, 2.48.030, 2.48.035, 2.48.040, 2.48.050, 2.48.060, 2.48.070, 2.48.080, 2.48.090, 2.48.100, 2.48.110, 2.48.130, 2.48.140, 2.48.150, 2.48.160, 2.48.166, 2.48.170, 2.48.190, 2.48.210, 2.48.220, and 2.48.230; and providing an effective date."