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SENATE BILL DRS35199-LR-89 (03/17)

Short Title: Internet Publication of Legal Notices. (Public)

Sponsors: Senators Sanderson, Dunn, and Horner (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REQUIRE INTERNET WEB SITE PUBLICATION OF LEGAL NOTICES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 1-596 reads as rewritten:

"§ 1-596. **Charges for legal advertising.**

(a) The publication of all advertising required by law to be made in newspapers in this State shall be paid for at not to exceed the local commercial rate of the newspapers selected. Any public or municipal officer or board created by or existing under the laws of this State that is now or may hereafter be authorized by law to enter into contracts for the publication of legal advertisements is hereby authorized to pay therefor prices not exceeding said rates.

No newspaper in this State shall accept or print any legal advertising until said newspaper shall have first filed with the clerk of the superior court of the county in which it is published a sworn statement of its current commercial rate for the several classes of advertising regularly carried by said publication, and any owner or manager of a newspaper violating the provisions of this section shall be guilty of a Class 1 misdemeanor.

(b) When a government notice is required to be published more than once and is paid for by the governmental entity, and the cost of publication is not paid in advance by or allowed to be recouped from private parties, the governmental entity may not be charged for the second and successive insertions of that notice at a rate greater than eighty-five percent (85%) of the original rate.

**SECTION 2.** G.S. 1-597 reads as rewritten:

"§ 1-597. **Regulations for newspaper publication of legal notices, advertisements, etc.**

(a) Whenever a notice or any other paper, document or legal advertisement of any kind or description shall be authorized or required by any of the laws of the State of North Carolina, heretofore or hereafter enacted, or by any order or judgment of any court of this State to be published or advertised in a newspaper, such publication, advertisement or notice shall be of no force and effect unless it shall be published in a newspaper with a general circulation to actual paid subscribers which newspaper at the time of such publication, advertisement or notice, shall have been admitted to the United States mails in the Periodicals class in the county or political subdivision where such publication, advertisement or notice is required to be published, and which shall have been regularly and continuously issued in the county in which the publication, advertisement or notice is authorized or required to be published, at least one day in each calendar week for at least 25 of the 26 consecutive weeks immediately preceding the date of the first publication of such advertisement, publication or notice; provided that in the event that a newspaper otherwise meeting the qualifications and having the characteristics prescribed by G.S. 1-597 to 1-599, should fail for a period not exceeding four weeks in any calendar year to



1 publish one or more of its issues such newspaper shall nevertheless be deemed to have  
2 complied with the requirements of regularity and continuity of publication prescribed herein.  
3 Provided further, that where any city or town is located in two or more adjoining counties, any  
4 newspaper published in such city or town shall, for the purposes of G.S. 1-597 to 1-599, be  
5 deemed to be admitted to the mails, issued and published in all such counties in which such  
6 town or city of publication is located, and every publication, advertisement or notice required to  
7 be published in any such city or town or in any of the counties where such city or town is  
8 located shall be valid if published in a newspaper published, issued and admitted to the mails  
9 anywhere within any such city or town, regardless of whether the newspaper's plant or the post  
10 office where the newspaper is admitted to the mails is in such county or not, if the newspaper  
11 otherwise meets the qualifications and requirements of G.S. 1-597 to 1-599. ~~This provision  
12 shall be retroactive to May 1, 1940, and all publications, advertisements and notices published  
13 in accordance with this provision since May 1, 1940, are hereby validated.~~

14 Notwithstanding the provisions of G.S. 1-599, whenever a notice or any other paper,  
15 document or legal advertisement of any kind or description shall be authorized or required by  
16 any of the laws of the State of North Carolina, heretofore or hereafter enacted, or by any order  
17 or judgment of any court of this State to be published or advertised in a newspaper qualified for  
18 legal advertising in a county and there is no newspaper qualified for legal advertising as  
19 defined in this section in such county, then it shall be deemed sufficient compliance with such  
20 laws, order or judgment by publication of such notice or any other such paper, document or  
21 legal advertisement of any kind or description in a newspaper published in an adjoining county  
22 or in a county within the same district court district as defined in G.S. 7A-133 or superior court  
23 district or set of districts as defined in G.S. 7A-41.1, as the case may be; provided, if the clerk  
24 of the superior court finds as a fact that such newspaper otherwise meets the requirements of  
25 this section and has a general circulation in such county where no newspaper is published  
26 meeting the requirements of this section.

27 (b) Each notice must be placed on the newspaper's Internet Web site, at no additional  
28 charge, on the same day that the notice appears in the newspaper. A hyperlink to legal notices  
29 shall be provided on the front page of the newspaper's Internet Web site that provides access to  
30 the legal notices without charge. If there is a specified size and placement required for a printed  
31 legal notice, the size and placement of the notice on the newspaper's Internet Web site should  
32 optimize its online visibility in keeping with the print requirement. The newspaper's Internet  
33 Web site pages that contain legal notices shall present the legal notices as the dominant subject  
34 matter of those pages. The newspaper's Internet Web site shall contain a search function to  
35 facilitate searching legal notices.

36 (c) If a legal notice is published in the newspaper and cannot be published on the  
37 newspaper's Internet Web site for any reason, the newspaper publishing the notice shall place  
38 the notice on the statewide Internet Web site established and maintained as an initiative of the  
39 North Carolina Press Association as a repository for such notices.

40 (d) Upon request, newspapers that publish notices shall provide electronic mail  
41 notification of the new legal notices when they are printed in the newspaper and added to the  
42 newspaper's Internet Web site. The electronic mail notification shall be provided without  
43 charge, and notification for the electronic mail registry shall be available on the front page of  
44 the legal notices section of the newspaper's Internet Web site.

45 (e) Any error in the notice placed on the newspaper's Internet Web site or the statewide  
46 North Carolina Press Association Internet Web site shall be considered harmless error, and the  
47 requirement of proper legal notice shall be deemed to have been met if the government entity  
48 placing the notice advertisement also places the notice on its own Internet Web site.

49 (f) Any notice required by statute to be published by a government entity shall be  
50 deemed to comply with the requirement for publication if the government entity has attempted  
51 to have the notice published in accordance with this Article by a newspaper of general

1 circulation and has also published the notice on its own Web site, even if the publication by a  
2 newspaper of general circulation under this Article is not timely completed."

3       **SECTION 3.** The validation of any publication, advertisement, or notice pursuant  
4 to a previous enactment of G.S. 1-597 remains in effect and is not affected by any  
5 modifications of that statute enacted by this act.

6       **SECTION 4.** This act becomes effective October 1, 2017, and applies to notices  
7 that must be published on or after that date, except that it does not apply to notices permitted to  
8 be published on a government Internet Web site in lieu of newspaper publication pursuant to an  
9 ordinance enacted before that date.