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Municipalities - Attorneys -
Licenses and Permits

Phenix City may require an attorney to buy a city license to practice there if the attorney practices there on a regular and routine basis.

Dear Mr. Loftin:

Reference is made to the request by the City of Phenix City for an opinion from the Attorney General regarding the licensing of certain attorneys doing business in that city. The following question was posed:

"Is it proper to require attorneys to purchase a business license in the City of Phenix City, Alabama, when the attorneys are licensed by the State Bar of the State of Alabama and who practice law within the city limits of the City of Phenix City, Alabama, but whose offices are located in the City of Columbus, Georgia?"

A municipality has the statutory power to license vocations or occupations carried on within the corporate limits or police jurisdiction of the city, Code of Alabama 1975, Section 11-51-90.

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It is an established principle that the power of a municipality to require licenses of occupations adheres to the place in which the occupations are pursued and not to the domicile of the person pursuing them. Therefore, municipalities do impose license charges upon nonresidents who perform an act or engage in an occupation within the limits of the licensing municipality. Am Jur 2d., Licenses and Permits, §120.

In an opinion of the Attorney General to the Honorable Robert P. Reynolds, Attorney for the City of Northport dated October 24, 1983, it was concluded that municipalities may impose a license fee on the practice of medicine within a municipality by nonresident physicians. In this case the physicians practiced at a hospital located within the corporate limits of the City of Northport. The opinion cited Estes v. City of Gadsden, 266 Ala. 166, 94 So.2d 744 (1957) where the Supreme Court of Alabama upheld a license fee imposed by a municipality on anyone, including nonresidents following any trade, occupation or profession within the limits of the municipality.

However, in an opinion to the Honorable Charles L. Murphree, Attorney for the City of Hartselle, the Attorney General ruled that a municipality may not require a nonresident architect who is licensed to practice in another city to obtain a license to do business within its municipal limits and police jurisdiction. This opinion stated that the architectural services were not actually performed in the City of Hartselle, because most of the services rendered by a nonresident architect in the performance of a contract were performed in his office and not within the City of Hartselle. Thus, the architectural services actually rendered in the City of Hartselle were not sufficient in quantity or longevity to allow that city to license the architects. Similarly, a court of another state ruled that a city annual business license tax was improperly levied upon a nonresident firm of consulting engineers whose employees spent a total of twelve hours working in the city during the taxable year. The court said that such business license taxes would tend to encourage unconstitutional multiple burdens of taxation on those engaged in intercity business in the state.

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Considering your question, the Attorney General is of the opinion that the power of the City of Phenix City to require nonresident attorneys to buy a business license to practice law in that city is dependent upon the amount of time the attorney actually spends in the practice of law in Phenix City. If an attorney only comes to Phenix City occasionally and spends only a few hours there each time practicing law, the City of Phenix City cannot require him to buy a business license to practice law there. However, if the attorney comes to Phenix City frequently or on a regular and routine basis to practice law there and/or if he practices in the courts in that city on a regular or routine basis, the city may require the attorney to buy a business license.

I hope that your questions have been adequately answered.

If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

CHARLES A. GRADDICK
Attorney General

By:



LYNDA K. OSWALD
Assistant Attorney General

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