

# Foreign Legal Consultants Frequently Asked Questions – Approved June 16, 2023

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### **1. What is a Foreign Legal Consultant?**

A Foreign Legal Consultant is a person whom the Supreme Court of Texas has certified to practice in Texas as foreign legal consultant under Rule 14. Someone holding an FLC certificate may practice the law of their home jurisdiction in Texas as allowed by that jurisdiction, partner with and share

legal fees with Texas attorneys, and engage in the scope of practice in Texas detailed in [Rule 14 §3](#).

## 2. Who is eligible to be certified as an FLC in Texas?

The Rules set out two paths to being certified as an FLC in Texas.

**Law office.** Rule 14 §1(a) applies to those who intend to maintain an office in Texas to practice as an FLC in Texas. The requirements for this path are:

- Be an attorney in good standing in a foreign country for at least 3 of the 5 years immediately preceding the date of the application (see Rule 14 §(a)(1) for details); and
- Be at least 26 years old; and
- Possess the present good moral character and fitness requisite for a member of the Texas Bar.

**In-house.** Rule 14 §(b) applies to those who wish to practice as an FLC in-house (see Rule 14 §(b)(4) for details). The requirements for this path are:

- For at least 3 of the 5 years immediately preceding the date of the application:
  - Be authorized to practice law in a foreign jurisdiction; or
  - Be a member in good standing of the bar of another State; or
  - Be actively and substantially engaged in the lawful practice of law in a foreign country or another United States jurisdiction;and
- Be at least 26 years old; and
- Possess the present good moral character and fitness requisite for a member of the Texas Bar.

## 3. How should FLCs hold themselves out to the public? What titles can they use?

An FLC who holds himself out as an attorney or an FLC without clarifying that they are not licensed in Texas will be presumed to be making a false or misleading communication in violation of TDRPC Rule 7.01.

**Rule 14 §3(f).** Per Rule 14 §3(f), an FLC cannot in any way hold themselves out as a member of the Texas bar.

**Texas Disciplinary Rules of Professional Conduct.** FLCs are subject to TDRPC. TDRPC Rule 7.01(a) states:

A lawyer shall not make or sponsor a false or misleading communication about the qualifications or services of a lawyer or law firm. Information about legal services must be truthful and nondeceptive. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading. A statement is misleading if there is a substantial likelihood that it will lead a reasonable person to formulate a specific conclusion about the lawyer or the lawyer's services for which there is no reasonable factual foundation, or if the statement is substantially likely to create unjustified expectations about the results the lawyer can achieve.

TDRPC Rule 7.01(c) states, in part:

A law firm with an office in more than one jurisdiction may use the same name or other professional designation in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.

**Rule 14 §3(g).** Per Rule 14 §3(g) an FLC can only use one or more of the following names, titles, or designations in connection with their FLC practice in Texas:

- The FLC's own name; and/or
- The name of the law firm they are affiliated with; and/or
- The authorized title in the foreign country where they are authorized to practice, which may be used in conjunction with the name of that country; and/or
- The title "Foreign Legal Consultant," which may be used in conjunction with the words "authorized to practice law in [name of the foreign country in which they are authorized to practice]."

Examples of designations that comply with these requirements:

- ✓ Lee Smith, Foreign Legal Consultant (not licensed in Texas)

- ✓ Lee Smith, Foreign Legal Consultant, Authorized to Practice law in Mexico (not licensed in Texas)
- ✓ Lee Smith, Attorney in Mexico, Foreign Legal Consultant (not licensed in Texas)

Examples of designations that do **not** comply with these requirements:

- X Lee Smith, affiliated with the Texas Bar as a Foreign Legal Consultant
- X Lee Smith, licensed as a Foreign Legal Consultant by the State Bar of Texas
- X Lee Smith, Certified Foreign Legal Consultant
- X Lee Smith, Texas Foreign Legal Consultant
- X Lee Smith, Attorney
- X Lee Smith, Partner
- X Lee Smith, Attorney and Foreign Legal Consultant

#### 4. Does the Court “license” FLCs?

The Court certifies Foreign Legal Consultants; it does not “license” them.

#### 5. Are FLCs members of the State Bar of Texas?

No, FLCs are **not** members of the State Bar of Texas. Instead, they are considered to be “affiliated with” the State Bar of Texas, subject to the rights and obligations set out in Rule 14 §4 and limited to the scope of practice in §3.

#### 6. What can an FLC do in Texas? What can they not do?

An FLC may render legal services in Texas in the manner and to the extent permitted by the FLC’s home jurisdiction, subject to the limitations set out in Rule 14 §3.

As clearly set out in Rule 14 §3:

- An FLC **must not** appear for another person in any court in Texas, any magistrate in Texas, or any other judicial officer in Texas.
- An FLC **must not** prepare certain real estate instruments.
- An FLC **must not** prepare certain wills, trusts, and instruments for estate administration.
- An FLC **must not** render certain services related to family law.
- An FLC **must not** render professional legal advice on the law of Texas, or of the United States (unless licensed in another State)

including U.S. immigration law, except under the explicit and narrow circumstances allowed in Rule 14 §3(e)(1)-(2).

An FLC is obligated to be familiar with, understand, and abide by the scope of practice in Rule 14 §3.

#### **7. Can an FLC practice immigration law or provide immigration services?**

Being certified as an FLC does **not** authorize a person to practice immigration law or provide immigration services.

#### **8. Can an FLC partner with a Texas lawyer? Can a Texas lawyer share legal fees with an FLC?**

Yes. Per Rule 14 §4, an FLC has the right to partner with Texas lawyers, and Texas lawyers and FLCs may share legal fees with each other.

#### **9. Does an FLC have to have an active law license in another jurisdiction?**

Probably. An FLC can only practice in Texas “in the manner and to the extent permitted by the jurisdiction in which the person is authorized to practice or, in the case of a person who satisfies the requirements of subparagraph 1(b)(1)(C), to the extent permitted by the jurisdiction in which the person has been actively and substantially engaged in the lawful practice of law.”

Most jurisdictions require a lawyer to maintain an active law license in order to practice law. However, some jurisdictions require attorneys to surrender their license in order to work as in-house counsel or in the judiciary. These attorneys can still qualify to be certified as FLCs in Texas under Rule 14 §1(b)(1)(C).

#### **10. How do I apply to be certified as an FLC?**

- Create an ATLAS account.
- From your ATLAS User Home page, click the green [Start New Application](#) button, and find Foreign Legal Consultant
- Complete the application and upload supporting documentation.

#### **11. How long does an FLC certificate last?**

Unless revoked by the Board under Rule 14 §7, a certification to practice as a Foreign Legal Consultant is valid for one year.

## 12. Do FLCs have to complete mandatory continuing legal education (MCLE)?

Per Rule 14 §6(b)(3), in order to renew their certificate, FLCs must complete 3 hours of continuing legal education in ethics courses accredited by the State Bar of Texas. (Because FLCs are **not** members of the Bar, they are not required to complete the MCLE that members of the Bar must complete per [State Bar](#) Rule XII Section 6.)

## 13. How do I timely renew my FLC certification, so that there is no gap in my certification?

To timely renew your FLC certificate, complete the required CLE and, **at least 60 days before your FLC certification expires**, submit a renewal application.

- Log in to your ATLAS account
- Upload proof that you completed the required CLE
- Click the green [Start New Application](#) button and find FLC Renewal
- At least 60 days before your FLC certificate expires, complete the renewal application and use the green [Submit Application](#) button to submit it and pay the renewal fee.

(Do not submit a renewal application until after you have completed your CLE. We will not consider your renewal application to be submitted or filed unless it is accompanied by proof that you have completed the required CLE. If you submit a renewal application without first uploading proof that you completed the required CLE, we may reject your application.)

If you submit a complete FLC renewal application during the timely renewal period, then, **before your current FLC certificate expires**:

- If staff determines that you are entitled to renew, then Staff will renew your certificate; **or**
- If staff determines that you no longer meet the requirements for certification and there is time for a hearing before your current FLC certificate expires, we will issue you a Preliminary Determination Letter and notice of a hearing to occur before your current FLC certificate expires. If, after that hearing, the Board determines that you no longer meet the requirements for certification, the Board will deny your renewal; **or**
- If a final determination has not been made before your current certificate expires, staff will renew your certificate but continue our

investigation of your eligibility and present good moral character and fitness. Upon completion of our investigation, we will notify you of our determination. If we determine that you no longer meet the requirements for certification, we will issue you a Preliminary Determination Letter and notice of hearing. If, after notice and hearing, the Board determines that you no longer meet the requirements for certification, the Board may recommend that your FLC certificate be revoked. See Rule 15 §7; **or**

#### 14. I missed the timely renewal period. Can I still renew?

Maybe. From 59 days before your FLC certificate expires until up to 180 days after your FLC certificate expires, you can, upon a showing of good cause, submit a “grace period” renewal application. You will have to pay a \$150 fee and a \$150 late fee for total fees of \$300.

If you submit a renewal application during the grace period, it is likely that we will not complete our investigation before your current certificate expires. **If your current FLC certificate expires before it is renewed, then there will be a gap in your certification**—you would **not** be certified as an FLC from the date of the expiration of your current FLC certificate until the date of your next certificate. During this gap in certification, you would **not** be “affiliated with the Bar,” you would **not** be subject to the rights and obligations set out in Rule 14 §4, and you would **not** be authorized to engage in the scope of practice detailed in Rule 14 §3.

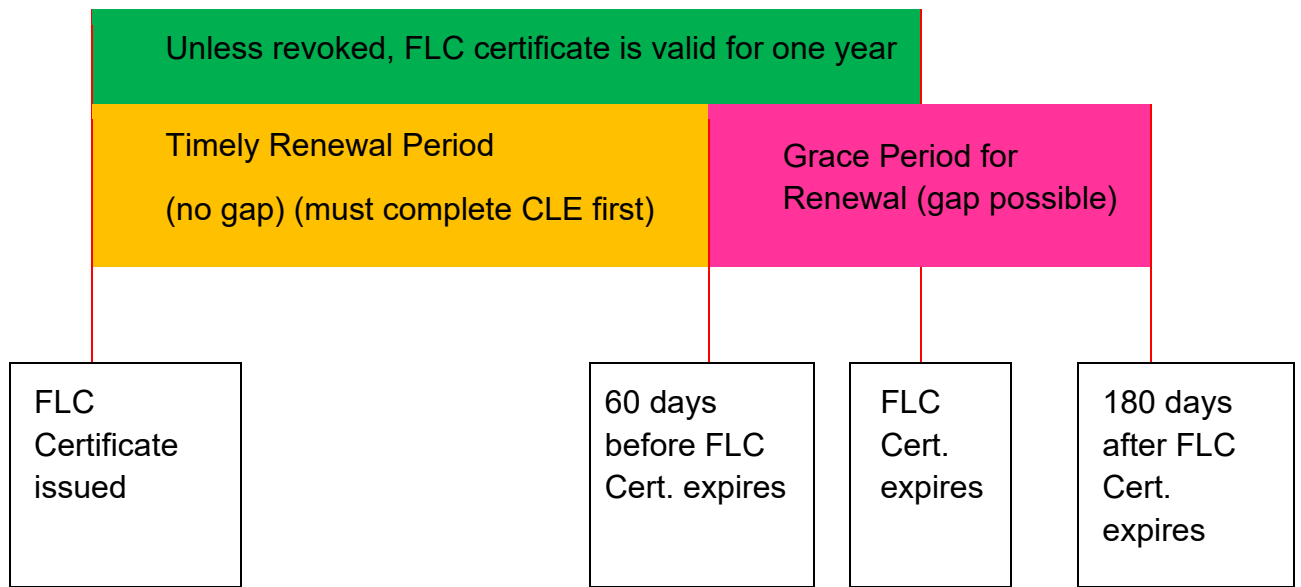
If you missed the timely renewal period and you want to renew your FLC certificate during the grace period describe above:

- Log in to your ATLAS account
- Upload proof that you completed the required CLE
- Click the green [Start New Application](#) button and find FLC Renewal
- Complete the renewal application and use the green Submit Application button to submit it and pay the renewal fee.
- After you submit the renewal, we will contact you through ATLAS with instructions on how to offer good cause and pay the late fee.

#### 15. I missed the timely renewal period, and I also missed the grace period. Can I still renew my FLC certificate?

No. If you do not submit a renewal application within 180 days after your certificate expires, you will not be able to renew. Instead, you may submit and pay for an initial application for certification.

**16. Chart of FLC renewal periods**



**17. How can I tell if someone is currently certified as an FLC?**

Check here: [FLCs in Texas](#)

**18. How do I file a complaint about an FLC?**

Start here: [FLC Complaint Form](#)