

Board of Law Examiners
Appointed by the Supreme Court of Texas

Foreign Legal Consultant (FLC) Application Instructions

Rules

If you currently hold a Foreign Legal Consultant Certification, you may renew your certification by submitting to the Board the following, **at least 60 days before your certification expires:**

- A Foreign Legal Consultant Renewal Application, which must be notarized *no more than 90 days before* you submit it to us;
- Payment of the fee(s);
- Proof that you completed three hours of continuing legal education in ethics courses accredited by the State Bar of Texas; and
- Such evidence as the Board shall deem necessary that you continue to meet the requirements for the original certification.

Filing Fee

As stated in Rule XVIII(a), the fee to renew a Foreign Legal Consultant Certification alternates between \$150.00 and \$300.00 with every other renewal application.

Basic Steps to Applying for FLC

- Login to your personal ATLAS account on this website.
- From your ATLAS account, click to apply for FLC Renewal. This will allow you to pay the filing fee online.
- Go to the APPLICATION FORMS tab, find the Ancillary Forms box, and download an FLC Renewal form.
- Complete the FLC Renewal form. Then scan it and upload it to your ATLAS account.
- Upload all other required documents. Keep originals on hand—you must mail them to us upon request.
- Arrange for third parties to provide documents to us.
- Update your mailing address, email address, and all other information as needed while your Application is pending.

Sponsor

You must obtain an attorney sponsor who has been a member of the Bar of Texas in good standing for at least 5 years. That sponsor must complete the sponsor information on the attached Sponsor Information.

Continuing Legal Education (CLE)

You must attach proof that you have completed three hours of continuing legal education in ethics courses accredited by the State Bar of Texas. To report CLE hours you will use the Foreign Legal Consultant Attendance Certificate Form found on the State Bar of Texas website Foreign Legal Consultant Certification page. Both you and the CLE sponsor must complete the form.

Orders of Non-Disclosure

Pursuant to the Gov't Code Sec. 552.142 (b), if you have criminal matters that are the subject of an order of non-disclosure you are not required to reveal those criminal matters on this form. However,

a criminal matter that is the subject of an order of non-disclosure may become a character and fitness issue. Pursuant to other sections of the Government Code 411.081(d), 411.081(i)(5), 411.083(b), 411.084(a), 411.087(a), and 411.100, the Texas Board of Law Examiners is entitled to access criminal history record information that is the subject of an order of non-disclosure. Therefore, if the Board discovers a criminal matter that is the subject of an order of non-disclosure, even if you properly did not reveal that matter, the Board may ask you to provide information about that criminal matter.

Expunged and Sealed Offenses

Matters expunged pursuant to Texas Code of Criminal Procedure Art. 55.02, or pursuant to another State's statute with the same force and effect, need not be disclosed. While expunged or sealed offenses, arrests, tickets, or citations need not be disclosed, it is your responsibility to ensure the offense, arrest, ticket, or citation has, in fact, been expunged or sealed. It is recommended that you obtain a copy of the Court Order expunging or sealing the record in question. Failure to reveal an offense, arrest, ticket, or citation that is not in fact expunged or sealed, raises questions related to truthfulness in addition to questions regarding the offense itself. Note that orders of non-disclosure pursuant to Gov't Code §411.081 are not orders of expunction.

Court Records

You must provide legible copies of all requested court records as specified on the application.

Determining What Counts as the Active, Substantial, and Lawful Practice of Law

If you are applying under XIV(b)(1)(c), you must establish that you have "been actively and substantially engaged in the lawful practice of law" in a foreign country or other U.S. jurisdiction as your principal business or occupation for at least 3 of the last 5 years immediately preceding the filing of the Application.

Rule I(a)(11) describes the practice of law to include:

- a. private practice as a sole practitioner or for a law firm, legal services office, legal clinic, public agency, or similar entity
- b. practice as an attorney for an individual or for a corporation, partnership, trust, or other entity with the primary duties of furnishing legal counsel and advice drafting and interpreting legal documents and pleadings interpreting and giving advice regarding the law or preparing, trying, or presenting cases before courts, departments of government, or administrative agencies
- c. practice as an attorney for a local government or the state or federal government, with the same primary duties described in the preceding subsection
- d. employment as a judge, magistrate, referee, or similar official for a local government or the state or federal government, provided that the employment is open only to licensed attorneys
- e. employment as a full-time teacher of law at an approved law school

f. any combination of the preceding categories.

The Board has adopted a Policy Statement on Practice Requirements for Rule XIII.

For work as an attorney in (or from within) any jurisdiction without being licensed as an attorney in that jurisdiction, you must provide a written statement, including citation of court rule, statute or binding authority in that jurisdiction, demonstrating to the satisfaction of the Board that the jurisdiction does not regard such activity or practice as unlawful. See also Instruction 37 below. Engaging in the unauthorized or unlawful practice of law could result in a negative character finding by the Board, a referral to the Unauthorized Practice of Law Committee, and could also result in your employing attorney being referred to the State Bar General Counsel for violation of Rule 5.05(b), Texas Disciplinary Rules of Professional Conduct.

Documenting the Active, Substantial, and Lawful Practice of Law

Tax Returns or Proof of Income. For each calendar year during the applicable 5-year period during which you are claiming employment as an attorney, you must provide one the following:

1. A copy of each of your federal U.S. income tax returns, together with all schedules, W-2, K-1, and 1099 forms as applicable for each calendar year during which you are claiming employment as an attorney. If you need a copy of your U.S. tax return and attachments, you can complete an IRS form 4506 (Request for Copy of Tax Form), and submit it to the IRS along with the required fee. Generally, the IRS can provide copies for the current year and past six years.
2. A copy of each income tax form and schedules required to be file by you in a foreign nation.
3. For each calendar year during which you are claiming employment as an attorney but for which you have not filed a federal or foreign income tax return or form, documentation of your total adjusted gross income and the portion of that income attributable to your law practice.

Authorization to Practice Law. Generally, at all times during the period of practice for which credit is sought, you must have had an active law license under which you have been, lawfully entitled to practice law in the issuing jurisdiction, unless controlling federal or foreign law provides otherwise.

For each jurisdiction in which you practiced law without holding a valid, active license issued by the jurisdiction in which the practice occurs, you must have the jurisdiction in which the practice occurs to confirm in writing to the Board that it regards such practice as lawful in order for it be considered for purposes of any practice requirement of Rule XIII, Rules Governing Admission to the Bar of Texas. Only when it is demonstrated that written confirmation of lawful practice has been sought from the jurisdiction and cannot be obtained, alternate proof of lawfulness can be provided in the form of a verifiable written statement citing court rule, statute or other authority in the jurisdiction, demonstrating to the satisfaction of the Board that the jurisdiction does not regard such activity or practice as unlawful.

Proof of authorization to practice law may be satisfied by proof that you were lawfully engaged in the practice of law as an in-house counsel in a foreign jurisdiction that requires a person to surrender the person's license in order to practice in-house.

Job Descriptions. For each law practice employment you have had, you must provide a copy of the official job description from the employer's personnel records, describing the position you held. If the employer indicates that no official job description exists, have the employer write to the Board, on firm or company letterhead, and provide a detailed description of the work you performed in the position and a statement as to whether the employment was full-time, and if not, providing detailed documentation of the hours you worked providing legal services in this position.

Military Lawyers. If you are seeking to count practice as a military lawyer, you must submit copies of all officer evaluation performance reports for the period of time you are claiming, in addition to your DD Form 214, as applicable, at the time you file your application.

Part-Time Practice. Demonstrated practice of at least 30 hours per week is necessary to establish active and substantial practice. If your practice experience includes part-time law practice, or time that may not be counted under the Policy Statement on Practice Requirements for Rule XIII, you may be required to establish the actual number of hours per week you rendered legal services for that period of time to count toward the Rule XIII requirements.

No credit will be given for practice unless the required documentation is provided. You must submit an English translation of any required document that is not written in English.

Full Disclosure

It is imperative that you honestly and fully answer all questions, regardless of whether you believe the information requested is relevant. Your responses on your application are evaluated as evidence of your candor and honesty. An honest "yes" answer to a question on your application is not definitive as to the Board's assessment of your present moral character and fitness, but a dishonest "no" answer is evidence of a lack of candor and honesty, which may be definitive on the character and fitness issue.

Obligation to Update

You are obligated to immediately update the Board of any matters addressed in your FLC application.

Rule XIV Excerpts

§ 3 Scope of Practice

A person certified to practice as a Foreign Legal Consultant under this Rule may render legal services 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 Section 1(b)(1)(C) of this rule, to the extent permitted by the jurisdiction in which the person has been

actively and substantially engaged in the lawful practice of law. But the Foreign Legal Consultant must not:

- (a) appear for a person other than himself or herself as an attorney in any court, or before any magistrate or other judicial officer, in Texas;
- (b) prepare any instrument effecting the transfer or registration of title to real estate located in the United States of America;
- (c) prepare:
 - (1) any will or trust instrument effecting the disposition on death of any property located in the United States of America and owned by a resident thereof; or
 - (2) any instrument relating to the administration of a decedent's estate in the United States of America;
- (d) prepare any instrument in respect of the marital or parental relations, rights, or duties of a resident of the United States of America, or the custody or care of the children of such a resident;
- (e) render professional legal advice on the law of Texas or of the United States (unless the person is licensed in another state), except:
 - (1) on the basis of advice from a person, whom the Foreign Legal Consultant has identified to the client, who:
 - (A) is authorized to practice law in Texas or in the United States; and
 - (B) either:
 - (i) serves as co-counsel with the Foreign Legal Consultant on a matter for the client;
 - (ii) is affiliated with the Foreign Legal Consultant through employment, partnership, or membership in the same law firm, company, or governmental agency; or
 - (2) as an in-house counsel advising the Foreign Legal Consultant's employer in the scope of his or her employment;
- (f) in any way hold himself or herself out as a member of the Bar of Texas; or
- (g) carry on his or her practice under, or utilize in connection with such practice, any name, title, or designation other than one or more of the following:
 - (1) his or her own name;
 - (2) the name of the law firm with which he or she is affiliated;
 - (3) his or her authorized title in the foreign country in which he or she is authorized to practice, which may be used in conjunction with the name of such country; and
 - (4) the title "Foreign Legal Consultant," which may be used in conjunction with the words "authorized to the practice of law in [name of the foreign country in which he or she is authorized to practice]."

§ 4 Rights and Obligations

Subject to the limitations set forth in Section 3 of this Rule, a person certified as a Foreign Legal Consultant under this Rule is considered to be a lawyer affiliated with the Bar of Texas and is entitled and subject to:

- (a) the rights and obligations of a member of the Texas Bar that are set forth in the State Bar Act, the State Bar Rules, and the Texas Disciplinary Rules of Professional Conduct or that arise from the other conditions and requirements that apply to a member of the Bar of Texas under the Texas Disciplinary Rules of Professional Conduct; and
- (b) the rights and obligations of a member of the Bar of Texas with respect to:
 - (1) affiliation in the same law firm with one or more members of the Bar of Texas, including by:
 - (A) employing one or more members of the Bar of Texas;
 - (B) being employed by one or more members of the Bar of Texas or by any partnership or

professional corporation that includes members of the Bar of Texas or that maintains an office in Texas; and

(C) being a partner in any partnership or a shareholder in any professional corporation that includes members of the Bar of Texas or that maintains an office in Texas; and

(2) attorney-client privilege, work-product privilege, and similar professional privileges.

A person certified as a Foreign Legal Consultant under this Rule is not a “nonlawyer” as that term is used in rule §5.03 or 5.04 of the Texas Disciplinary Rules of Professional Conduct.

A person who receives legal advice from a Foreign Legal Consultant is entitled to all privileges arising from the attorney-client relationship.

§ 5 Disciplinary Provisions

- (a) Every person certified to practice as a Foreign Legal Consultant under this Rule is subject to censure, suspension, removal, or revocation of his or her certification to practice by the Supreme Court.
- (b) Every Foreign Legal Consultant must execute and file with the Board, in such form and manner as the Board may prescribe:
 - (1) a written commitment
 - (A) to observe the State Bar Act, the State Bar Rules, and the Texas Disciplinary Rules of Professional Conduct, to the extent that the Act and the Rules are applicable to the legal services authorized under Section 3 of this Rule; and
 - (B) to notify the Board of any change in the person’s good standing as a member of a foreign legal profession and of any final disciplinary action of the professional body or public authority that regulates attorneys in the foreign jurisdiction in which the Foreign Legal Consultant is authorized to practice law; and
 - (2) a notarized document that sets forth the person’s address in Texas and designates the Executive Director of the Board as the person’s agent for service of process in any action or proceeding brought against the person that arises from legal services rendered or offered to be rendered by the person within or to residents of Texas, whenever after due diligence service cannot be made on the person at the address on file with the Board.
- (c) Service of process on the Executive Director of the Board under subsection (b)(2) must be made by personally delivering to, and leaving with, the Executive Director, or another person at the office of the Board who is authorized to receive service, two copies of the citation and petition and a fee of \$10. The Board must promptly send one copy to the Foreign Legal Consultant by certified mail, return receipt requested, at the address designated by the Foreign Legal Consultant under subsection (b)(2).