

1 to serve as an emergency justice or judge of the Appellate Division of
2 the General Court of Justice;

3 (4) The judicial service of the justice or judge ended within the preceding
4 15 years; and

5 (5) The justice or judge has applied to the Governor for appointment as an
6 emergency recall judge of the Court of Appeals in the same manner as is
7 provided for application in G.S. 7A-53. If the Governor is satisfied that
8 the applicant meets the requirements of this section and is physically
9 and mentally able to perform the duties of a judge of the Court of
10 Appeals, the Governor shall issue a commission appointing the
11 applicant as an emergency recall judge of the Court of Appeals until the
12 applicant reaches the mandatory retirement age for judges of the Court
13 of Appeals specified in G.S. 7A-4.20.

14 Any former justice or judge of the Appellate Division of the General Court of Justice
15 who otherwise meets the requirements of this section to be appointed an emergency recall
16 judge of the Court of Appeals, but who has already reached the mandatory retirement age
17 for judges of the Court of Appeals set forth in G.S. 7A-4.20, may apply to the Governor
18 to be appointed as an emergency recall judge of the Court of Appeals as provided in this
19 section. If the Governor issues a commission to the applicant, the retired justice or judge
20 is subject to recall as an emergency recall judge of the Court of Appeals as provided in
21 this section.

22 (b) Notwithstanding any other provision of law, the Chief Judge of the Court of
23 Appeals may recall and assign one or more emergency recall judges of the Court of
24 Appeals, not to exceed three at any one time, provided funds are available, if the Chief
25 Judge determines that one or more emergency recall judges of the Court of Appeals are
26 necessary to discharge the court's business expeditiously.

27 (c) Any emergency recall judge of the Court of Appeals appointed as provided in
28 this section shall be subject to recall in the following manner:

29 (1) The judge shall consent to the recall;

30 (2) The Chief Judge of the Court of Appeals may order the recall;

31 (3) Prior to ordering recall, the Chief Judge of the Court of Appeals shall be
32 satisfied that the recalled judge is capable of efficiently and promptly
33 discharging the duties of the office to which recalled;

34 (4) Orders of recall and assignment shall be in writing, evidenced by a
35 commission signed by the Chief Judge of the Court of Appeals, and
36 entered upon the minutes of the permanent records of the Court of
37 Appeals;

38 (5) Compensation, expenses, and allowances of emergency recall judges of
39 the Court of Appeals are the same as for recalled emergency superior
40 court judges under G.S. 7A-52(b);

41 (6) Emergency recall judges assigned under those provisions shall have the
42 same powers and duties, when duly assigned to hold court, as provided
43 for by law for judges of the Court of Appeals;

- 1 (7) Emergency recall judges of the Court of Appeals are subject to
2 assignment in the same manner as provided for by G.S. 7A-16 and G.S.
3 7A-19;
- 4 (8) Emergency recall judges of the Court of Appeals shall be subject to
5 rules adopted pursuant to G.S. 7A-39.8 regarding the filing of opinions
6 and other matters;
- 7 (9) Emergency recall judges of the Court of Appeals shall be subject to the
8 provisions and requirements of the Canons of Judicial Conduct during
9 the term of assignment; and
- 10 (10) An emergency recall judge of the Court of Appeals shall not engage in
11 the practice of law during any period for which the emergency recall
12 Court of Appeals judgeship is commissioned. However, this
13 subdivision shall not be construed to prohibit an emergency recall judge
14 of the Court of Appeals appointed pursuant to this section from serving
15 as a referee, arbitrator, or mediator during service as an emergency
16 recall judge of the Court of Appeals so long as the service does not
17 conflict with or interfere with the judge's service as an emergency recall
18 judge of the Court of Appeals.

19 (d) A justice or judge commissioned as an emergency recall judge of the Court of
20 Appeals is also eligible to receive a commission as an emergency special superior court
21 judge. However, no justice or judge who has been recalled as provided in this section
22 shall, during the period so recalled and assigned, contemporaneously serve as an
23 emergency special superior court judge or emergency justice of the General Court of
24 Justice."

25 Sec. 2. G.S. 7A-39.1(b) reads as rewritten:

26 "(b) As used herein, '~~emergency justice~~ or ~~justice~~', '~~emergency judge~~ ~~judge~~', or
27 'emergency recall judge' means any justice of the Supreme Court or any judge of the
28 Court of Appeals, respectively, who has retired subject to recall for temporary service."

29 Sec. 3. This act becomes effective July 1, 1995.