

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H.B. 157
Feb 21, 2017
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40097-MS-62 (02/15)

Short Title: Certifying Question Mechanism. (Public)

Sponsors: Representatives Faircloth and Stevens (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE A CERTIFYING QUESTION MECHANISM TO ALLOW FEDERAL
3 COURTS TO HAVE THE NORTH CAROLINA SUPREME COURT DETERMINE
4 FEDERAL CASES INVOLVING THE INTERPRETATION OF STATE LAW.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Article 5 of Chapter 7A of the General Statutes is amended by adding a
7 new section to read:

8 **"§ 7A-27A. Certifying question mechanism.**

9 (a) A federal court, on the motion of a party to a pending cause or its own motion, may
10 certify a question of law to the North Carolina Supreme Court if:

- 11 (1) The pending cause involves a question to be decided under North Carolina
12 State law;
13 (2) The answer to the question may be determinative of an issue in the pending
14 cause; and
15 (3) The question is one for which no answer is provided by either a controlling
16 statute or appellate decision of the State courts.

17 (b) The North Carolina Supreme Court may answer a question of law certified to it by a
18 federal court if the answer may be determinative of an issue in a pending cause in the certifying
19 court and if there are no controlling statute or appellate decision of this State.

20 (c) A certification order under subsection (a) of this section shall contain:

- 21 (1) The question of law to be answered;
22 (2) The facts relevant to the question, showing fully the nature of the controversy
23 out of which the question arose; and
24 (3) The names and addresses of counsel of record and unrepresented parties.

25 If the parties cannot agree upon a statement of facts, then the certifying court shall determine
26 the relevant facts and shall state them as a part of its certification order.

27 (d) The federal court certifying a question under subsection (a) of this section shall issue
28 the certification order and shall forward it to the North Carolina Supreme Court. The North
29 Carolina Supreme Court, either before or after accepting a certified question, may require the
30 federal court certifying the question to deliver its record, or any portion of the record. The North
31 Carolina Supreme Court shall notify the federal court certifying the question of its acceptance or
32 rejection of the question within 30 days. If accepted, the question shall be resolved within 60
33 additional days."

34 **SECTION 2.** This act is effective when it becomes law.



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