

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1336

Judiciary I Committee Substitute Adopted 6/15/94

Judiciary I Committee Substitute No. 2 Adopted 6/22/94

Short Title: Service of Process.

(Public)

Sponsors:

Referred to:

May 25, 1994

A BILL TO BE ENTITLED

AN ACT TO ALLOW SERVICE OF PROCESS BY A PRIVATE PROCESS SERVER
WHEN PROCESS IS RETURNED UNEXECUTED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 4 is amended by adding a new subsection (h1) to read:

"(h1) Summons – When process returned unexecuted. – If a proper officer returns a summons or other process unexecuted, or if service pursuant to Rule 4(j)(1)c is unsuccessful, the plaintiff or his agent or attorney may cause service to be made by anyone who is not less than 21 years of age and who is not a party to the action. This subsection shall not apply to executions pursuant to Article 28 of Chapter 1 or summary ejection pursuant to Article 3 of Chapter 42 of the General Statutes."

Sec. 2. G.S. 7A-305(d) reads as rewritten:

"(d) The following expenses, when incurred, are also assessable or recoverable, as the case may be:

- (1) Witness fees, as provided by law.
- (2) Jail fees, as provided by law.
- (3) Counsel fees, as provided by law.
- (4) Expense of service of process by certified mail and by publication.

- 1 (5) Costs on appeal to the superior court, or to the appellate division, as
2 the case may be, of the original transcript of testimony, if any, insofar
3 as essential to the appeal.
- 4 (6) Fees for personal service and civil process and other sheriff's fees, as
5 provided by law. Fees for personal service by a private process server
6 may be recoverable in an amount equal to the actual cost of such
7 service or fifty dollars (\$50.00), whichever is less, unless the court
8 finds that due to difficulty of service a greater amount is appropriate.
- 9 (7) Fees of guardians **ad litem**, referees, receivers, commissioners,
10 surveyors, arbitrators, appraisers, and other similar court appointees, as
11 provided by law. The fee of such appointees shall include reasonable
12 reimbursement for stenographic assistance, when necessary.
- 13 (8) Fees of interpreters, when authorized and approved by the court.
- 14 (9) Premiums for surety bonds for prosecution, as authorized by G.S. 1-
15 109."

16 Sec. 3. This act becomes effective September 1, 1994, and applies to actions
17 that are filed or have not reached final judgment on or after that date.