

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 390

Short Title: Modernize Judgment Docketing Laws. (Public)

Sponsors: Senators Hartsell; and Clodfelter.

Referred to: Judiciary II.

March 12, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO GIVE EFFECT TO ELECTRONIC JUDGMENT DOCKETS BY
3 MODERNIZING LAWS REGARDING JUDGMENTS AND CHANGING THE
4 EFFECTIVE DATE OF CIVIL JUDGMENT LIENS AND THE DATE FROM
5 WHICH INTEREST ACCRUES ON JUDGMENTS.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 1-232 reads as rewritten:

8 "§ 1-232. Judgment roll.

9 Unless the party or ~~his~~ the party's attorney furnishes a judgment ~~roll~~ roll or the
10 documents referred to in subdivision (1) of this section or the documents referred to in
11 subdivision (2) of this section, whichever applies, are already on file, the clerk,
12 immediately after entering the judgment, shall attach together and file the following
13 papers which constitute the judgment roll:

14 (1) In case the complaint is not answered by any defendant, the summons
15 and complaint, or copies thereof, proof of service, and that no answer
16 has been received, the report, if any, and a copy of the judgment.

17 (2) In all other cases, the summons, pleadings, or copies thereof, and a
18 copy of the judgment, with any verdict or report, the offer of the
19 defendant, exceptions, case, and all orders and papers in any way
20 involving the merits and necessarily affecting the judgment."

21 SECTION 2. G.S. 1-233 reads as rewritten:

22 "§ 1-233. Docketed and indexed; held as of first day of session.

23 Every judgment of the superior or district court, affecting ~~the right~~ title to real
24 property, or requiring in whole or in part the payment of money, shall be ~~entered~~
25 indexed and recorded by the clerk of ~~said~~ that superior court on the judgment docket of
26 the court. The docket entry must contain the file number for the case in which the
27 judgment was entered, the names of the parties, the address, if known, of each party
28 against whom judgment is rendered, ~~and~~ the relief granted, ~~date of judgment,~~ and the
29 date, ~~hour~~ hour, and minute of ~~docketing;~~ ~~and~~ the entry of judgment under G.S. 1A-1,

1 Rule 58, and the date, hour, and minute of the indexing of the judgment. The clerk shall
2 keep a cross-index of the whole, with the dates and file numbers thereof; however, error
3 or omission in the entry of the address or addresses shall in no way affect the validity,
4 ~~finality~~ finality, or priority of the judgment docketed. ~~In all cases affecting the title to~~
5 ~~real property the clerk shall enter upon the judgment docket the number and page of the~~
6 ~~minute docket where the judgment is recorded, and if the judgment does not contain~~
7 ~~particular description of the lands, but refers to a description contained in the pleadings,~~
8 ~~the clerk shall enter upon the minute docket, immediately following the judgment, the~~
9 ~~description so referred to.~~

10 All judgments rendered in any county by the superior or district court, during a
11 session of the court, and docketed during the same session, or within 10 days thereafter,
12 are held and deemed to have been rendered and docketed on the first day of said
13 session, for the purpose only of establishing equality of priority as among such
14 judgments."

15 **SECTION 3.** G.S. 1-234 reads as rewritten:

16 "**§ 1-234. Where and how docketed; lien.**

17 (a) Upon ~~filing a judgment roll upon~~ the entry of a judgment under G.S. 1A-1,
18 Rule 58, affecting the title of real property, or directing in whole or in part the payment
19 of money, ~~it shall be docketed~~ the clerk of superior court shall index and record the
20 judgment on the judgment docket of the court of the county where the judgment ~~roll~~
21 ~~was filed, and entered.~~ The judgment may be docketed on the judgment docket of the
22 court of any other county upon the filing with the clerk thereof of a transcript of the
23 original docket, and docket. The judgment lien is effective as against third parties from
24 and after the indexing of the judgment as provided in G.S. 1-233. The judgment is a lien
25 on the real property in the county where the same is docketed of every person against
26 whom any such judgment is rendered, and which he has at the time of the docketing
27 thereof in the county in which such real property is situated, or which he acquires at any
28 time thereafter, for 10 years from the date of the ~~rendition~~ entry of the
29 judgment. judgment under G.S. 1A-1, Rule 58, in the county where the judgment was
30 originally entered. But the time during which the party recovering or owning such
31 judgment shall be, or shall have been, restrained from proceeding thereon by an order of
32 injunction, or other order, or by the operation of any appeal, or by a statutory
33 prohibition, does not constitute any part of the 10 years aforesaid, as against the
34 defendant in such judgment, or the party obtaining such orders or making such appeal,
35 or any other person who is not a purchaser, creditor or mortgagee in good faith.

36 (b) A judgment docketed pursuant to G.S. 15A-1340.38 shall constitute a lien
37 against the property of a defendant as provided for under subsection (a) of this section."

38 **SECTION 4.** G.S. 24-5 reads as rewritten:

39 "**§ 24-5. Interest on judgments.**

40 (a) Actions on Contracts. – In an action for breach of contract, except an action
41 on a penal bond, the amount awarded on the contract bears interest from the date of
42 breach. The fact finder in an action for breach of contract shall distinguish the principal
43 from the interest in the award, and the judgment shall provide that the principal amount
44 bears interest until the judgment is satisfied. If the parties have agreed in the contract

1 that the contract rate shall apply after judgment, then interest on an award in a contract
2 action shall be at the contract rate after judgment; otherwise it shall be at the legal rate.
3 On awards in actions on contracts pursuant to which credit was extended for personal,
4 family, household, or agricultural purposes, however, interest shall be at the lower of
5 the legal rate or the contract rate. As used in this subsection, 'after judgment' means after
6 the date of entry of judgment under G.S. 1A-1, Rule 58.

7 (a1) Actions on Penal Bonds. – In an action on a penal bond, the amount of the
8 judgment, except the costs, shall bear interest at the legal rate from the date of ~~docketing~~
9 entry of judgment under G.S. 1A-1, Rule 58, until the judgment is satisfied.

10 (b) Other Actions. – In an action other than contract, any portion of a money
11 judgment designated by the fact finder as compensatory damages bears interest from the
12 date the action is commenced until the judgment is satisfied. Any other portion of a
13 money judgment in an action other than contract, except the costs, bears interest from
14 the date of entry of judgment under G.S. 1A-1, Rule 58, until the judgment is satisfied.
15 Interest on an award in an action other than contract shall be at the legal rate."

16 **SECTION 5.** This act becomes effective September 1, 2003, and applies to
17 all judgments that are entered, indexed, or docketed on and after that date.