

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE DRH70390-LD-133 (04/13)

Short Title: Electronic Signature Under Rule 4.

(Public)

Sponsors: Representative Glazier.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE, FOR SERVICE OF PROCESS UPON A NATURAL PERSON OR FOR PROOF OF PERSONAL SERVICE UNDER RULE 4 OF THE RULES OF CIVIL PROCEDURE, CERTAIN ELECTRONIC SIGNATURE CONFIRMATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1A-1, Rule 4(j)(1) reads as rewritten:

"(1) Natural Person. – Except as provided in subsection (2) below, upon a natural person by one of the following:

- a. By delivering a copy of the summons and of the complaint to him or by leaving copies thereof at the defendant's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein.
- b. By delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to be served or to accept service of process or by serving process upon such agent or the party in a manner specified by any statute.
- c. By mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to the party to be served, and delivering to the addressee.
- d. By depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to the party to be served, delivering to the addressee, and obtaining a delivery receipt.
- e. By mailing a copy of the summons and of the complaint, addressed to the party to be served, and delivering to the addressee, when delivery is confirmed by electronic signature

1 confirmation, an electronic proof of service that is obtained
2 from the United States Postal Service Internet Web site, is
3 maintained by the United States Postal Service, and is available
4 by fax or mail, upon request."

5 **SECTION 2.** G.S. 1A-1, Rule 4(j2)(2) reads as rewritten:

6 "(2) Registered or Certified ~~Mail~~ Mail, Mail when Delivery is Confirmed
7 by Electronic Signature Confirmation, or Designated Delivery Service.
8 – Before judgment by default may be had on service by registered or
9 certified ~~mail~~ mail, by mail when delivery is confirmed by electronic
10 signature confirmation, or by a designated delivery service authorized
11 pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, the serving
12 party shall file an affidavit with the court showing proof of such
13 service in accordance with the requirements of ~~G.S. 1-75.10(4)~~ G.S.
14 1-75.10(4), 1-75.10(6), or ~~G.S.~~ 1-75.10(5), as appropriate. This
15 affidavit together with the return or delivery receipt or copy of the
16 electronic receipt signed by the person who received the mail or
17 delivery if not the addressee raises a presumption that the person who
18 received the mail or delivery and signed the receipt was an agent of the
19 addressee authorized by appointment or by law to be served or to
20 accept service of process or was a person of suitable age and discretion
21 residing in the addressee's dwelling house or usual place of abode. In
22 the event the presumption described in the preceding sentence is
23 rebutted by proof that the person who received the receipt at the
24 addressee's dwelling house or usual place of abode was not a person of
25 suitable age and discretion residing therein, the statute of limitation
26 may not be pleaded as a defense if the action was initially commenced
27 within the period of limitation and service of process is completed
28 within 60 days from the date the service is declared invalid. Service
29 shall be complete on the day the summons and complaint are delivered
30 to the address."

31 **SECTION 3.** G.S. 1-75.10 is amended by adding a new subdivision to read:

32 "(6) Service by Mail When Delivery is Confirmed by Electronic Signature
33 Confirmation. – In the case of service by mail when delivery is
34 confirmed by electronic signature confirmation, by affidavit of the
35 serving party averring all of the following:
36 a. That a copy of the summons and complaint was deposited in the
37 post office for mailing.
38 b. That it was in fact received as confirmed by electronic signature
39 confirmation, an electronic proof of service that is obtained
40 from the United States Postal Service Internet Web site, is
41 maintained by the United States Postal Service, and is available
42 by fax or mail, upon request; and this confirmation is evidenced
43 by the attached copy of the electronic signature or other
44 evidence satisfactory to the court of delivery to the addressee.

1 c. That the copy of the electronic signature or other evidence is
2 attached."

3 **SECTION 4.** This act becomes effective October 1, 2005, and applies to
4 actions filed on or after that date.