

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 404

Short Title: Debts to Judgment Debtors/Pay to Sheriff. (Public)

Sponsors: Representatives Ford and McNeill (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I

March 21, 2017

A BILL TO BE ENTITLED

AN ACT TO REQUIRE SOME OR ALL OF CERTAIN PAYMENTS TO JUDGMENT DEBTORS AGAINST WHOSE PROPERTY AN EXECUTION HAS BEEN ISSUED TO BE MADE TO THE SHERIFF RATHER THAN TO THE JUDGMENT DEBTOR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1-359 reads as rewritten:

"§ 1-359. Debtors of judgment debtor ~~may~~ shall satisfy execution.

(a) After the issuing of an execution against ~~property,~~ property and the presentation of a copy of that execution by the sheriff, all persons indebted to the judgment debtor, or to any one of several debtors in the same judgment, ~~may pay who make a payment on that debt, shall make as much of that payment as is necessary to satisfy the execution to the sheriff the amount of their debt, or as much thereof as is necessary to satisfy the execution; and thereafter than to the judgment debtor. The~~ sheriff's receipt is a sufficient discharge ~~for the amount paid of the debtor's obligation to the judgment debtor for the amount paid. Failure to make payment to the sheriff shall not be a violation of this section where the person making payment did not have knowledge of the execution and no demand for payment of the execution was made by the sheriff. Payment of the amount owed to the judgment debtor by the person indebted to the judgment debtor after receiving a demand for payment from the sheriff under the execution shall subject the person indebted to a penalty in the amount of either the full amount due on the judgment and execution or the amount paid on the debt to the judgment debtor, whichever is less. This penalty shall be applied to the satisfaction of the judgment and execution under which the demand for payment was made.~~

...."

SECTION 2. G.S. 162-16 reads as rewritten:

"§ 162-16. Execute summons, order or judgment.

(a) Whenever the sheriff may be required to serve or execute any summons, order or judgment, or to do any other act, he shall be bound to do so in like manner as upon process issued to him, and shall be equally liable in all respects for neglect of duty; and if the sheriff be a party, the coroner shall be bound to perform the service, as he is now bound to execute process where the sheriff is a party; and this Chapter relating to sheriffs shall apply to coroners when the sheriff is a party. Sheriffs and coroners may return process by mail. Their liabilities in respect to the execution of process shall be as prescribed by law.

(b) Nothing in this section shall require a sheriff, or coroner, to execute a judgment where the sheriff, or coroner, has knowledge that the property to be sold to satisfy the judgment



1 is exempt from execution under Article 16 of Chapter 1C of the General Statutes and has been
2 so notated on the writ of execution.

3 (c) In those counties where the office of coroner has been abolished, or is vacant, and in
4 which process is required to be served or executed on the sheriff, the authority to serve or
5 execute such process shall be vested in the clerk of court; however, the clerk of court is hereby
6 empowered to designate and direct by appropriate order some person to act in his stead to serve
7 or execute the same."

8 **SECTION 3.** This act becomes effective October 1, 2017.