

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE DRS35090-LD-28 (3/5)

Short Title: Modernize Judgment Docketing Laws.

(Public)

Sponsors: Senator Hartsell.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO GIVE EFFECT TO ELECTRONIC JUDGMENT DOCKETS BY
MODERNIZING LAWS REGARDING JUDGMENTS AND CHANGING THE
EFFECTIVE DATE OF CIVIL JUDGMENT LIENS AND THE DATE FROM
WHICH INTEREST ACCRUES ON JUDGMENTS.

The General Assembly of North Carolina enacts:

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

"§ 1-232. Judgment roll.

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

- (1) In case the complaint is not answered by any defendant, the summons and complaint, or copies thereof, proof of service, and that no answer has been received, the report, if any, and a copy of the judgment.
- (2) In all other cases, the summons, pleadings, or copies thereof, and a copy of the judgment, with any verdict or report, the offer of the defendant, exceptions, case, and all orders and papers in any way involving the merits and necessarily affecting the judgment."

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

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

Every judgment of the superior or district court, affecting ~~the right~~title to real property, or requiring in whole or in part the payment of money, shall be ~~entered~~indexed and recorded by the clerk of ~~said~~that superior court on the judgment docket of the court. The docket entry must contain the file number for the case in which the judgment was entered, the names of the parties, the address, if known, of each party

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

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

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

18 "**§ 1-234. Where and how docketed; lien.**

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

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

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

41 "**§ 24-5. Interest on judgments.**

42 (a) Actions on Contracts. – In an action for breach of contract, except an action
43 on a penal bond, the amount awarded on the contract bears interest from the date of
44 breach. The fact finder in an action for breach of contract shall distinguish the principal

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

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

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

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