

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1405
Committee Substitute Favorable 6/30/98
Senate Judiciary Committee Substitute Adopted 8/5/98
Fourth Edition Engrossed 8/10/98

Short Title: Small Claims Judgments.

(Public)

Sponsors:

Referred to:

May 21, 1998

A BILL TO BE ENTITLED

1 AN ACT TO AMEND SMALL CLAIMS PROCEDURE TO CLARIFY THAT THE
2 DISTRICT COURT HAS AUTHORITY TO HEAR CERTAIN MOTIONS FOR
3 RELIEF FROM MAGISTRATES' JUDGMENTS, AND TO PROVIDE THAT A
4 DISTRICT COURT JUDGE WHO WAS FORMERLY AN ASSISTANT DISTRICT
5 ATTORNEY OF THE THIRTEENTH JUDICIAL DISTRICT MAY PERFORM
6 THE MARRIAGE CEREMONY.
7

8 The General Assembly of North Carolina enacts:

9 Section 1. G.S. 7A-228(a) reads as rewritten:

10 "(a) ~~With the consent of the chief district court judge, a magistrate may~~ The chief district
11 court judge may authorize magistrates to hear motions to set aside an order or judgment
12 for mistake or excusable neglect pursuant to G.S. 1A-1, Rule 60(b)(1) and order a new trial
13 before a magistrate. The exercise of the authority of the chief district court judge in
14 allowing magistrates to hear Rule 60(b)(1) motions shall not be construed to limit the
15 authority of the district court to hear motions pursuant to Rule 60(b)(1) through (6) of the
16 Rules of Civil Procedure for relief from a judgment or order entered by a magistrate and,
17 if granted, to order a new trial before a magistrate. After final disposition before the

1 magistrate, the sole remedy for an aggrieved party is appeal for trial de novo before a
2 district court judge or a jury. Notice of appeal may be given orally in open court upon
3 announcement or after entry of judgment. If not announced in open court, written notice
4 of appeal must be filed in the office of the clerk of superior court within 10 days after
5 entry of judgment. The appeal must be perfected in the manner set out in subsection (b).
6 Upon announcement of the appeal in open court or upon receipt of the written notice of
7 appeal, the appeal shall be noted upon the judgment. If the judgment was mailed to the
8 parties, then the time computations for appeal of such judgment shall be pursuant to G.S.
9 1A-1, Rule 6."

10 Section 2. G.S. 51-1 reads as rewritten:

11 "**§ 51-1. Requisites of marriage; solemnization.**

12 The consent of a male and female person who may lawfully marry, presently to take
13 each other as husband and wife, freely, seriously and plainly expressed by each in the
14 presence of the other, and in the presence of an ordained minister of any religious
15 denomination, minister authorized by his church, or of a district court judge or
16 magistrate, and the consequent declaration by such minister or officer that such persons
17 are husband and wife, shall be a valid and sufficient marriage: Provided, that the rite of
18 marriage among the Society of Friends, according to a form and custom peculiar to
19 themselves, shall not be interfered with by the provisions of this Chapter: Provided
20 further, that marriages solemnized and witnessed by a local spiritual assembly of the
21 Baha'is, according to the usage of their religious community, shall be valid; provided
22 further, marriages solemnized before March 9, 1909, by ministers of the gospel licensed,
23 but not ordained, are validated from their consummation."

24 Section 3. This act is effective when it becomes law. Section 2 of this act
25 shall apply only to district court judges, who were formerly assistant district attorneys of
26 the Thirteenth Judicial District, and shall expire on July 31, 1999.