

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 636
Committee Substitute Favorable 4/7/03

Short Title: Modernize Judgment Docketing Laws.

(Public)

Sponsors:

Referred to:

March 25, 2003

A BILL TO BE ENTITLED

AN ACT TO GIVE EFFECT TO ELECTRONIC JUDGMENT DOCKETS BY
MODERNIZING LAWS REGARDING JUDGMENTS AND REESTABLISHING
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 attorney furnishes a judgment ~~roll~~, roll or the documents referred to in this section 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 indexed.~~

Every judgment of the superior or district court, affecting ~~the right title~~ 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 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 and against whom judgment is rendered, ~~and the relief granted, date of judgment, and the date, hour~~ hour, and minute of docketing; and the the entry of judgment under G.S. 1A-1, Rule 58, and the date, hour, and minute of the indexing of the judgment. The clerk shall keep a

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

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

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

15 **"§ 1-234. Where and how docketed; lien.**

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

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

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

38 **"§ 24-5. Interest on judgments.**

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

1 action shall be at the contract rate after judgment; otherwise it shall be at the legal rate.
2 On awards in actions on contracts pursuant to which credit was extended for personal,
3 family, household, or agricultural purposes, however, interest shall be at the lower of
4 the legal rate or the contract rate. For purposes of this section, "after judgment" means
5 after the date of entry of judgment under G.S. 1A-1, Rule 58.

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

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

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