

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 753
HOUSE BILL 1118

AN ACT TO FACILITATE APPEALS FROM SMALL CLAIMS COURT TO
DISTRICT COURT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-228(a) is rewritten to read:

"(a) With the consent of the chief district court judge, a magistrate may set aside an order or judgment for mistake or excusable neglect pursuant to G.S. 1A-1, Rule 60(b)(1) and order a new trial before a magistrate. After final disposition before the magistrate, the sole remedy for an aggrieved party is appeal for trial de novo before a district court judge or a jury. Notice of appeal may be given orally in open court upon announcement or after entry of judgment. If not announced in open court, written notice of appeal must be filed in the office of the clerk of superior court within 10 days after entry of judgment. The appeal must be perfected in the manner set out in subsection (b). Upon the announcement of the appeal in open court or upon receipt of the written notice of appeal, the appeal shall be noted upon the judgment. If the judgment was mailed to the parties, then the time computations for appeal of such judgment shall be pursuant to G.S. 1A-1, Rule 6."

Sec. 2. G.S. 7A-228(b) is rewritten to read:

"(b) The appeal shall be perfected by (1) oral announcement of appeal in open court; or (2) by filing notice of appeal in the office of the clerk of superior court within 10 days after entry of judgment, pursuant to subsection (a), and by serving a copy of the notice of appeal on all parties pursuant to G.S. 1A-1, Rule 5. Failure to pay the costs of court to appeal within 20 days after entry of judgment shall result in the automatic dismissal of the appeal. The failure to demand a trial by jury in district court by the appealing party before the time to perfect the appeal has expired is a waiver of the right thereto."

Sec. 3. This act shall become effective on October 1, 1985 and shall apply to all cases initiated on or after that date.

In the General Assembly read three times and ratified, this the 15th day of July, 1985.