

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 562

Short Title: Raise Nonresident Service Fee.

(Public)

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Sponsors: Representative Brawley.

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Referred to: Judiciary.

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March 14, 1989

A BILL TO BE ENTITLED

AN ACT TO RAISE THE FEE FOR SERVICE ON NONRESIDENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-105 reads as rewritten:

**"§ 1-105. Service upon nonresident drivers of motor vehicles and upon the personal representatives of deceased nonresident drivers of motor vehicles.**

The acceptance by a nonresident of the rights and privileges conferred by the laws now or hereafter in force in this State permitting the operation of motor vehicles, as evidenced by the operation of a motor vehicle by such nonresident on the public highways of this State, or at any other place in this State, or the operation by such nonresident of a motor vehicle on the public highways of this State or at any other place in this State, other than as so permitted or regulated, shall be deemed equivalent to the appointment by such nonresident of the Commissioner of Motor Vehicles, or his successor in office, to be his true and lawful attorney and the attorney of his executor or administrator, upon whom may be served all summonses or other lawful process in any action or proceeding against him or his executor or administrator, growing out of any accident or collision in which said nonresident may be involved by reason of the operation by him, for him, or under his control or direction, express or implied, of a motor vehicle on such public highways of this State, or at any other place in this State, and said acceptance or operation shall be a signification of his agreement that any such process against him or his executor or administrator shall be of the same legal force and validity as if served on him personally, or on his executor or administrator.

Service of such process shall be made in the following manner:

- 1 (1) By leaving a copy thereof, with a fee of ~~three dollars (\$3.00)~~, ten dollars  
2 (\$10.00) in the hands of the Commissioner of Motor Vehicles, or in his  
3 office. Such service, upon compliance with the other provisions of this  
4 section, shall be sufficient service upon the said nonresident.
- 5 (2) Notice of such service of process and copy thereof must be forthwith  
6 sent by registered mail by plaintiff or the Commissioner of Motor  
7 Vehicles to the defendant, and the entries on the defendant's return  
8 receipt shall be sufficient evidence of the date on which notice of  
9 service upon the Commissioner of Motor Vehicles and copy of process  
10 were delivered to the defendant, on which date service on said  
11 defendant shall be deemed completed. If the defendant refuses to  
12 accept the registered letter, service on the defendant shall be deemed  
13 completed on the date of such refusal to accept as determined by  
14 notations by the postal authorities on the original envelope, and if such  
15 date cannot be so determined, then service shall be deemed completed  
16 on the date that the registered letter is returned to the plaintiff or  
17 Commissioner of Motor Vehicles, as determined by postal marks on  
18 the original envelope. If the registered letter is not delivered to the  
19 defendant because it is unclaimed, or because he has removed himself  
20 from his last known address and has left no forwarding address or is  
21 unknown at his last known address, service on the defendant shall be  
22 deemed completed on the date that the registered letter is returned to  
23 the plaintiff or Commissioner of Motor Vehicles.
- 24 (3) The defendant's return receipt, or the original envelope bearing a  
25 notation by the postal authorities that receipt was refused, and an  
26 affidavit by the plaintiff that notice of mailing the registered letter and  
27 refusal to accept was forthwith sent to the defendant by ordinary mail,  
28 together with the plaintiff's affidavit of compliance with the provisions  
29 of this section, must be appended to the summons or other process and  
30 filed with said summons, complaint and other papers in the cause.

31 Provided, that where the nonresident motorist has died prior to the commencement  
32 of an action brought pursuant to this section, service of process shall be made on the  
33 executor or administrator of such nonresident motorist in the same manner and on the  
34 same notice as if provided in the case of a nonresident motorist.

35 The court in which the action is pending shall order such continuance as may be  
36 necessary to afford the defendant reasonable opportunity to defend the action.

37 Sec. 2. This act shall become effective July 1, 1989.