

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 372

Short Title: Time Limits for Foreign Service.

(Public)

Sponsors: Senators Odom; and Rand.

Referred to: Judiciary.

March 11, 1997

A BILL TO BE ENTITLED

1 AN ACT TO REMOVE, FOR SERVICE IN A CIVIL ACTION UPON A
2 DEFENDANT LOCATED OUTSIDE THE UNITED STATES, THE TIME LIMITS
3 REGARDING THE SECURING OF AN ENDORSEMENT UPON THE ORIGINAL
4 SUMMONS OR THE SUING OUT OF AN ALIAS OR PLURIES SUMMONS
5 WHEN THE DEFENDANT IS NOT SERVED WITHIN THE TIME ALLOWED
6 FOR SERVICE.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 1A-1, Rule 4(d) reads as rewritten:

9 "(d) Summons – Extension; endorsement, alias and pluries. – When any defendant
10 in a civil action is not served within the time allowed for service, the action may be
11 continued in existence as to such defendant by either of the following methods of
12 extension:
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14 (1) The plaintiff may secure an endorsement upon the original summons for
15 an extension of time within which to complete service of process.
16 Return of the summons so endorsed shall be in the same manner as the
17 original process. Such endorsement may be secured within 90 days after
18 the issuance of summons or the date of the last prior endorsement, or

19 (2) The plaintiff may sue out an alias or pluries summons returnable in the
20 same manner as the original process. Such alias or pluries summons

1 may be sued out at any time within 90 days after the date of issue of the
2 last preceding summons in the chain of summonses or within 90 days of
3 the last prior endorsement.

4 Provided, in tax and assessment foreclosures under G.S. 47-108.25 and G.S. 105-374,
5 the first endorsement may be made at any time within two years after the issuance of the
6 original summons, and subsequent endorsements may thereafter be made as in other
7 actions; or an alias or pluries summons may be sued out at any time within two years
8 after the issuance of the original summons, and after the issuance of such alias or pluries
9 summons, the chain of summonses may be kept up as in any other action.

10 Provided, for service upon a defendant in a place not within the United States, no time
11 limits apply to securing an endorsement under subdivision (1) of this subsection and to
12 suing out an alias or pluries summons under subdivision (2) of this subsection.

13 Provided, further, the methods of extension may be used interchangeably in any case
14 and regardless of the form of the preceding extension."

15 Section 2. This act is effective when it becomes law and applies to actions
16 commenced on or after that date.