

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 372
Judiciary Committee Substitute Adopted 4/30/97
House Committee Substitute Favorable 7/10/97

Short Title: Time Limits for Foreign Service.

(Public)

Sponsors:

Referred to:

March 11, 1997

A BILL TO BE ENTITLED

1 AN ACT TO AMEND, FOR SERVICE IN A CIVIL ACTION UPON A DEFENDANT
2 LOCATED OUTSIDE THE UNITED STATES, THE TIME LIMITS REGARDING
3 THE SECURING OF AN ENDORSEMENT UPON THE ORIGINAL SUMMONS
4 OR THE SUING OUT OF AN ALIAS OR PLURIES SUMMONS WHEN THE
5 DEFENDANT IS NOT SERVED WITHIN THE TIME ALLOWED FOR SERVICE
6 AND TO VALIDATE NOTARIAL ACTS PERFORMED BY CERTAIN
7 NOTARIES BEFORE JUNE 1, 1997.
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9 The General Assembly of North Carolina enacts:

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

11 "(d) Summons – Extension; endorsement, alias and pluries. – When any defendant
12 in a civil action is not served within the time allowed for service, the action may be
13 continued in existence as to such defendant by either of the following methods of
14 extension:

- 15 (1) The plaintiff may secure an endorsement upon the original summons for
16 an extension of time within which to complete service of process.
17 Return of the summons so endorsed shall be in the same manner as the

1 original process. Such endorsement may be secured within 90 days after
2 the issuance of summons or the date of the last prior endorsement, or

- 3 (2) The plaintiff may sue out an alias or pluries summons returnable in the
4 same manner as the original process. Such alias or pluries summons
5 may be sued out at any time within 90 days after the date of issue of the
6 last preceding summons in the chain of summonses or within 90 days of
7 the last prior endorsement.

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

14 Provided, for service upon a defendant in a place not within the United States, the first
15 endorsement may be made at any time within two years after the issuance of the original
16 summons, and subsequent endorsements may thereafter be made at least once every two
17 years; or an alias or pluries summons may be sued out at any time within two years after
18 the issuance of the original summons, and after the issuance of such alias or pluries
19 summons, the chain of summonses may be kept up as in any other action if sued out
20 within two years of the last preceding summons in the chain of summonses or within two
21 years of the last prior endorsement.

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

24 Section 2. G.S. 10A-16(d), as amended by S.L. 1997-19, reads as rewritten:

25 "(d) This section applies to notarial acts performed before ~~December 31, 1996.~~ June
26 1, 1997."

27 Section 3. Section 1 of this act becomes effective October 1, 1997. The
28 remaining sections of this act are effective when they become law.