

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1405

Short Title: Small Claims Judgments.

(Public)

Sponsors: Representatives Culpepper; R. Hunter and Tolson.

Referred to: Judiciary II.

May 21, 1998

A BILL TO BE ENTITLED

1 AN ACT TO AMEND SMALL CLAIMS PROCEDURE TO CLARIFY THAT THE
2 DISTRICT COURT HAS AUTHORITY TO HEAR CERTAIN MOTIONS FOR
3 RELIEF FROM MAGISTRATES' JUDGMENTS.
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5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 7A-228(a) reads as rewritten:

7 "(a) ~~With the consent of the chief district court judge, a magistrate may~~ The chief
8 district court judge may authorize magistrates to hear motions to set aside an order or
9 judgment for mistake or excusable neglect pursuant to G.S. 1A-1, Rule 60(b)(1) and
10 order a new trial before a magistrate. The exercise of the authority of the chief district
11 court judge in allowing magistrates to hear Rule 60(b)(1) motions shall not be construed
12 to limit the authority of the district court to hear motions pursuant to Rule 60(b)(1)
13 through (6) of the Rules of Civil Procedure for relief from a judgment or order entered by
14 a magistrate and, if granted, to order a new trial before a magistrate. After final
15 disposition before the magistrate, the sole remedy for an aggrieved party is appeal for
16 trial de novo before a district court judge or a jury. Notice of appeal may be given orally
17 in open court upon announcement or after entry of judgment. If not announced in open
18 court, written notice of appeal must be filed in the office of the clerk of superior court
19 within 10 days after entry of judgment. The appeal must be perfected in the manner set
20 out in subsection (b). Upon announcement of the appeal in open court or upon receipt of

1 the written notice of appeal, the appeal shall be noted upon the judgment. If the judgment
2 was mailed to the parties, then the time computations for appeal of such judgment shall
3 be pursuant to G.S. 1A-1, Rule 6."

4 Section 2. This act is effective when it becomes law.