

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 881
Judiciary I Committee Substitute Adopted 4/12/01
House Committee Substitute Favorable 11/6/01

Short Title: Workers' Comp Awards Filed as Judgments.

(Public)

Sponsors:

Referred to:

April 4, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT AGREEMENTS, ORDERS, AND FINAL AWARDS
UNDER THE WORKERS' COMPENSATION ACT MAY BE ENTERED AS
JUDGMENTS BY THE CLERK OF SUPERIOR COURT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 97-87 reads as rewritten:

~~"§ 97-87. Filing agreements approved by Commission or awards; judgment in
accordance therewith; discharge or restoration of lien.~~

Any party in interest may file in the superior court of the county in which the injury
occurred a certified copy of a memorandum of agreement approved by the Commission,
or of an order or decision of the Commission, or of an award of the Commission
unappealed from or of an award of the Commission affirmed upon appeal, whereupon
said court shall render judgment in accordance therewith, and notify the parties. Such
judgment shall have the same effect, and all proceedings in relation thereto shall
thereafter be the same, as though said judgment had been rendered in a suit duly heard
and determined by said court: Provided, if the judgment debtor shall file a certificate
duly issued by the Industrial Commission showing compliance with G.S. 97-83 with the
clerk of the superior court in the county or counties where such judgment is docketed,
then such clerk shall make upon the judgment roll an entry showing the filing of such
certificate which shall operate as a discharge of the lien of the said judgment, and no
execution shall be issued thereon; provided, further, that if at any time there is default in
the payment of any installment due under the award set forth in said judgment the court
may, upon application for cause and after 10 days' notice to judgment debtor, order the
lien of such judgment restored, and execution may be immediately issued thereon for
past due installments and for future installments as they may become due.

§ 97-87. Judgments on awards.

(a) As used in this section, 'award' includes the following:

- 1 (1) A form filed, or an award arising, under G.S. 97-18(b), 97-18(d), or
2 97-82(b).
- 3 (2) A memorandum of agreement approved by the Commission.
- 4 (3) An order or decision of the Commission.
- 5 (4) An award of the Commission from which there has been no appeal.
- 6 (5) An award of the Commission affirmed on appeal.

7 (b) When an award or portion of an award provides for a sum certain or for a sum
8 that can by computation be made certain, and that sum is due and payable as of the date
9 of the award, a judgment may be docketed as provided in subsection (d) of this section,
10 in an amount equal to that sum.

11 (c) When an award or portion of an award provides for periodic payments to be
12 made on or after the date of the award, a judgment may be docketed as provided in
13 subsection (d) of this section, in an amount equal to the sum stated in any Certificate of
14 Accrued Arrearages that is issued by the Commission under this subsection. If any
15 payment that has accrued after the date of the award, or after the date specified in the
16 most recent Certificate of Accrued Arrearages issued under this subsection, is not
17 received by the claimant when due, the following procedure is available for obtaining a
18 Certificate of Accrued Arrearages:

- 19 (1) The claimant may file with the Commission a Statement of Accrued
20 Arrearages, on a form approved by the Commission, and shall serve a
21 copy on all parties against whom judgment is sought and their attorney
22 of record.
- 23 (2) Any party against whom judgment is sought may, within 15 days of
24 the date of service of a Statement of Accrued Arrearages, file with the
25 Commission proof of any payments that have been made or other
26 responsive pleadings.
- 27 (3) If no proof or other responsive pleading is filed within 15 days of the
28 date of service of the Statement, the Commission shall immediately
29 issue a Certificate of Accrued Arrearages.
- 30 (4) If proof of payment or other responsive pleading is filed, the
31 Commission shall, within seven days, either issue a Certificate of
32 Accrued Arrearages that shall state the sum of payments due or decline
33 to issue a Certificate of Accrued Arrearages. The Commission shall
34 notify the claimant, the party against whom judgment is sought, and
35 their attorney of record of the Commission's decision.
- 36 (5) If any party disputes the decision of the Commission entered under
37 subdivision (c)(4) of this section, the party may appeal to the full
38 Commission within 10 days of the entry of the decision of the
39 Commission. The nonappealing party may file a response within 10
40 days of receiving notice of appeal. The notice of appeal shall request
41 one of the following:

- 1 a. The Commission reconsider the decision entered based on the
2 record and any additional evidence that parties submit with the
3 notice and response.
- 4 b. A de novo evidentiary hearing before the full Commission.
- 5 (6) The Commission shall grant the request for an evidentiary hearing
6 under sub-subdivision (c)(5)b. of this section if a material issue of fact
7 exists whose resolution is necessary to determine the appeal.
- 8 (7) If a notice of appeal is given under sub-subdivision (c)(5)a. of this
9 section, the Commission shall issue its decision within 10 days of the
10 filing of the response under subdivision (c)(5) of this section. If a
11 notice of appeal is given under sub-subdivision (c)(5)b. of this section,
12 the Commission shall either conduct an evidentiary hearing and issue
13 its decision on the appeal within 90 days of the filing of the response
14 under subdivision (c)(5) of this section or deny the request for the
15 evidentiary hearing and issue its decision within 10 days of the filing
16 of the response under subdivision (c)(5) of this section. Further appeals
17 are governed by G.S. 97-86.
- 18 (8) Each award and each Certificate of Accrued Arrearages shall include
19 the following information:
- 20 a. The names and addresses of the parties.
- 21 b. The sum of all principal amounts that have accrued and remain
22 unpaid since the date of the award or since the date of the most
23 recent prior Certificate of Accrued Arrearages.
- 24 c. The total of any interest that has accrued on the award, as of the
25 date of the Certificate of Accrued Arrearages, since the date of
26 the award or since the date of the most recent prior Certificate
27 of Accrued Arrearages.
- 28 d. Any costs, penalties, or monetary sanctions included in the
29 award.
- 30 (d) Any party in interest may file a certified copy of an award described in
31 subsection (b) of this section, or of a Certificate of Accrued Arrearages, in the office of
32 the clerk of superior court of the county in which the defendant has a place of business
33 or has property, or in which an injury occurred, or in Wake County. An award shall be
34 accompanied by the party's affidavit stating that the award has become final and the
35 time for making the first payment under the award has expired.
- 36 (e) Promptly after a certified copy of an award or of a Certificate of Accrued
37 Arrearages is filed, the clerk shall docket and index a judgment as provided in Chapter 1
38 of the General Statutes. The principal amount in the award or in the Certificate of
39 Accrued Arrearages shall bear interest at the judgment rate from the date the judgment
40 is docketed. The judgment may be enforced in the same manner as a judgment docketed
41 under Chapter 1 of the General Statutes.

1 (f) The filing of an award, or of a Certificate of Accrued Arrearages, for
2 docketing as a judgment under this section shall be treated as a civil action for record-
3 keeping purposes. The amount in which the judgment is docketed shall determine the
4 amount of the costs to be collected at the time of filing and assessed pursuant to G.S.
5 7A-305.

6 (g) Nothing in this section shall be construed to limit the Commission's authority
7 to impose any other remedy provided by law."

8 **SECTION 2.** G.S. 1-209 reads as rewritten:

9 "**§ 1-209. Judgments authorized to be entered by clerk; sale of property;**
10 **continuance pending sale; writs of assistance and possession.**

11 The clerks of the superior courts are authorized to enter the following judgments:

- 12 (1) All judgments of voluntary nonsuit.
- 13 (2) All consent judgments.
- 14 (3) In all actions upon notes, bills, bonds, stated accounts, balances struck,
15 and other evidences of indebtedness within the jurisdiction of the
16 superior court.
- 17 (4) All judgments by default final and default and inquiry as are
18 authorized by Rule 55 of the Rules of Civil Procedure, and in this
19 section provided.
- 20 (5) In all cases where the clerks of the superior court enter judgment by
21 default final upon any debt secured by mortgage, deed of trust,
22 conditional sale contract or other conveyance of any kind, either real
23 or personal property, or by a pledge of property, the said clerks of the
24 superior court are authorized and empowered to order a foreclosure of
25 such mortgage, deed of trust, conditional sale contract, or other
26 conveyance, and order a sale of the property so conveyed or pledged
27 upon such terms as appear to be just; and the said clerks of the superior
28 court shall have all the power and authority now exercised by the
29 judges of the superior court to appoint commissioners to make such
30 sales, to receive the reports thereof, and to confirm the report of sale or
31 to order a resale, and to that end they are authorized to continue such
32 causes from time to time as may be required to complete the sale, and
33 in the final judgment in said causes they shall order the execution and
34 delivery of all necessary deeds and make all necessary orders
35 disbursing the funds arising from the sale, and may issue writs of
36 assistance and possession upon ten days' notice to parties in
37 possession. The commissioners appointed to make foreclosure sales, as
38 herein authorized, may proceed to advertise such sales immediately
39 after the date of entering judgment and order of foreclosure, unless
40 otherwise provided in said judgment and order.

1 (6) All judgments on awards, or on Certificates of Accrued Arrearages, of
2 the Industrial Commission in workers' compensation cases, as defined
3 and provided for in G.S. 97-87.

4 In any tax foreclosure action pending on March 15, 1939 or thereafter brought under
5 the provisions of G.S. 105-414 in which there is filed no answer which seeks to prevent
6 entry of judgment of sale, the clerk of the superior court may render judgment of sale
7 and make all necessary subsequent orders and judgments to the same extent as
8 permitted by this section in actions brought to foreclose a mortgage. All such judgments
9 and orders heretofore rendered or made by a clerk of the superior court in such tax
10 foreclosure actions are hereby, as to the authority of the said clerk, ratified and
11 confirmed."

12 **SECTION 3.** This act becomes effective June 1, 2002, and applies to all
13 forms filed and awards arising under G.S. 97-18(b), 97-18(d), or 97-82(b) that are filed
14 or that arise before, on, or after that date; all agreements approved by the North Carolina
15 Industrial Commission under the Workers' Compensation Act, Article 1 of Chapter 97
16 of the General Statutes, that are approved before, on, or after that date; all orders or
17 decisions of the North Carolina Industrial Commission under the Workers'
18 Compensation Act that are entered before, on, or after that date; and all awards of the
19 North Carolina Industrial Commission unappealed from or affirmed upon appeal under
20 the Workers' Compensation Act that are awarded before, on, or after that date, and to all
21 Certificates of Accrued Arrearages that are issued on and after that date.