

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

**SENATE BILL 445
RATIFIED BILL**

AN ACT TO ALLOW CERTIFIED COPIES OF COURT-FILED DOCUMENTS TO BE RECORDED WITHOUT MEETING CERTAIN CONFORMING REQUIREMENTS OF THE REGISTER OF DEEDS, TO MODIFY VARIOUS PROVISIONS REGARDING SUMMARY EJECTMENTS AND OTHER SMALL CLAIMS MATTERS, AND TO MODIFY PROVISIONS REGARDING PROPERTY CRIMES.

The General Assembly of North Carolina enacts:

PART I. ALLOW CERTIFIED COPIES OF COURT-FILED DOCUMENTS FOR REGISTER OF DEEDS

SECTION 1. G.S. 161-14 reads as rewritten:

"§ 161-14. Registration of instruments.

(a) After the register of deeds has determined that all statutory and locally adopted prerequisites for recording have been met, the register of deeds shall immediately register all written instruments presented to him for registration. When an instrument is presented for registration, the register of deeds shall endorse upon it the day and hour on which it was presented. This endorsement forms a part of the registration of the instrument. All instruments shall be registered in the precise order in which they were presented for registration. Immediately after endorsing the day and hour of presentation upon an instrument, the register of deeds shall index and cross-index it in its proper sequence. The register of deeds shall then proceed to register it on the day that it is presented unless a temporary index has been established.

The register of deeds may establish a temporary index in which all instruments presented for registration shall be indexed until they are registered and entered in the permanent indexes. A temporary index shall operate in all respects as the permanent index. All instruments presented for registration shall be registered and indexed and cross-indexed on the permanent indexes not later than 30 days after the date of presentation.

(b) All instruments, except instruments conforming to the provisions of ~~G.S. 25-9-521~~, G.S. 25-9-521 and any certified copy of a court-filed document, presented for registration on paper shall meet all of the following requirements:

- (1) Be eight and one-half inches by eleven inches or eight and one-half inches by fourteen inches.
- (2) Have a blank margin of three inches at the top of the first page and blank margins of at least one-half inches on the remaining sides of the first page and on all sides of subsequent pages.
- (3) Be typed or printed in black on white paper in a legible font. A font size no smaller than 9 points shall be considered legible. Blanks in an instrument may be completed in pen and corrections to an instrument may be made in pen.
- (4) Have text typed or printed on one side of a page only.
- (5) State the type of instrument at the top of the first page.

If an instrument does not meet these requirements, the register of deeds shall register the instrument after collecting the fee for nonstandard documents as required by G.S. 161-10(a)(18a) in addition to all other applicable recording fees. However, if an instrument fails to meet the



requirements because it contains print in a font size smaller than 9 points, the register of deeds may register the instrument without collecting the fee for nonstandard documents if, in the discretion of the register of deeds, the instrument is legible.

(c) Repealed by Session Laws 2019-35, s. 4, effective June 21, 2019.

(d) For the purposes of this section, the term "instrument" means all of the following for which a fee is collected under G.S. 161-10(a):

- (1) Instruments in General.
- (2) Deeds of Trust, Mortgages, and Cancellation of Deeds of Trust and Mortgages.
- (3) Uniform Commercial Code filings.
- (4) Torrens Registrations.
- (5) Master Forms.

(e) Notwithstanding subsection (a) of this section, the register of deeds shall immediately register a written instrument presented to him or her for registration that meets the following requirements: (i) the instrument is a portion of a map of a cemetery that was divided into sections based upon race, (ii) the other portion of the map of a cemetery was properly registered in the office of the register of deeds, and (iii) the unregistered portion of the map does not have the surveyor's stamp or seal and original signature affixed."

PART II. ESTABLISH THE SMALL CLAIMS APPEAL PERIOD BEGINNING WHEN A JUDGMENT IS RENDERED

SECTION 2.(a) G.S. 7A-224 reads as rewritten:

"§ 7A-224. Rendition and entry of judgment.

Judgment in a small claim action is rendered in writing and signed by the ~~magistrate-~~magistrate or is rendered electronically by the magistrate. The judgment so rendered is a judgment of the district court, and is recorded and indexed as are judgments of the district and superior court generally. Entry is made as soon as practicable after rendition."

SECTION 2.(b) G.S. 7A-228 reads as rewritten:

"§ 7A-228. New trial before magistrate; appeal for trial de novo; how appeal perfected; oral notice; dismissal.

(a) The chief district court judge may authorize magistrates to hear motions to set aside an order or judgment pursuant to G.S. 1A-1, Rule 60(b)(1) and order a new trial before a magistrate. The exercise of the authority of the chief district court judge in allowing magistrates to hear Rule 60(b)(1) motions shall not be construed to limit the authority of the district court to hear motions pursuant to Rule 60(b)(1) through (6) of the Rules of Civil Procedure for relief from a judgment or order entered by a magistrate and, if granted, to order a new trial before a magistrate. After final disposition before the magistrate, the sole remedy for an aggrieved party is appeal for trial de novo before a district court judge or a jury. Notice of appeal may be given orally in open court upon announcement or after ~~entry of judgment-~~a judgment is rendered. If not announced in open court, written notice of appeal must be filed in the office of the clerk of superior court within 10 days after ~~entry of judgment-~~a judgment is rendered. The appeal must be perfected in the manner set out in subsection (b). Upon announcement of the appeal in open court or upon receipt of the written notice of appeal, the appeal shall be noted upon the judgment. If the judgment was mailed to the parties, then the time computations for appeal of such judgment shall be pursuant to G.S. 1A-1, Rule 6.

(b) The appeal shall be perfected by (1) oral announcement of appeal in open court; or (2) by filing notice of appeal in the office of the clerk of superior court within 10 days after ~~entry of a judgment is rendered~~ pursuant to subsection (a), and by serving a copy of the notice of appeal on all parties pursuant to G.S. 1A-1, Rule 5. Failure to pay the costs of court to appeal within 10 days after ~~entry of a judgment is rendered~~ in a summary ejectment action, and within 20 days after ~~entry of a judgment is rendered~~ in all other actions, shall result in the automatic dismissal

of the appeal. Notwithstanding the foregoing deadlines, if an appealing party petitions to qualify as an indigent for the appeal and is denied, that party shall have an additional five days to perfect the appeal by paying the court costs. The failure to demand a trial by jury in district court by the appealing party before the time to perfect the appeal has expired is a waiver of the right thereto.

(b1) ~~A person desiring to appeal as an indigent shall, within 10 days of entry of judgment by the magistrate, a magistrate rendering a judgment, file an affidavit that he or she the person is unable by reason of poverty to pay the costs of appeal. Within 20 days after entry of judgment, a judgment is rendered, a superior or district court judge, magistrate, or the clerk of the superior court may authorize a person to appeal to district court as an indigent if the person is unable to pay the costs of appeal. The clerk of superior court shall authorize a person to appeal as an indigent if the person files the required affidavit and meets one or more of the criteria listed in G.S. 1-110. A superior or district court judge, a magistrate, or the clerk of the superior court may authorize a person who does not meet any of the criteria listed in G.S. 1-110 to appeal as an indigent if the person cannot pay the costs of appeal.~~

The district court may dismiss an appeal and require the person filing the appeal to pay the court costs advanced if the allegations contained in the affidavit are determined to be untrue or if the court is satisfied that the action is frivolous or malicious. If the court dismisses the appeal, the court shall affirm the judgment of the magistrate.

...."

PART III. REQUIRE WRITTEN FINDINGS OF INDIGENCY IN SMALL CLAIMS APPEALS, MODIFY CRITERIA FOR PLAINTIFF'S MOTION TO DISMISS SUMMARY EJECTMENT APPEAL, AND REQUIRE THE CLERK TO DISBURSE PAYMENTS WITHIN FIVE DAYS OF A REQUEST

SECTION 3.(a) G.S. 7A-228 reads as rewritten:

"§ 7A-228. New trial before magistrate; appeal for trial de novo; how appeal perfected; oral notice; dismissal.

...

(b1) A person desiring to appeal as an indigent shall, within 10 days of entry of judgment by the magistrate, file an affidavit that he or she is unable by reason of poverty to pay the costs of appeal. Within 20 days after entry of judgment, a superior or district court judge, magistrate, or the clerk of the superior court may authorize a person to appeal to district court as an indigent if the person is unable to pay the costs of appeal. The clerk of superior court shall authorize a person to appeal as an indigent if the person files the required affidavit and meets one or more of the criteria listed in G.S. 1-110. A superior or district court judge, a magistrate, or the clerk of the superior court may authorize a person who does not meet any of the criteria listed in G.S. 1-110 to appeal as an indigent if the person cannot pay the costs of appeal.

The district court may dismiss an appeal and require the person filing the appeal to pay the court costs advanced if the allegations contained in the affidavit are determined to be untrue or if the court is satisfied that the action is frivolous or malicious. If the court dismisses the appeal, the court shall affirm the judgment of the magistrate.

(b2) A superior or district court judge, magistrate, or clerk of superior court authorizing a person to appeal to district court as an indigent pursuant to subsection (b1) of this section shall do at least one of the following:

- (1) Make written findings including (i) all criteria listed in G.S. 1-110 that led to the authorization of the person to appeal to district court as an indigent and (ii) all information or evidence used to determine that one or more criteria in G.S. 1-110 existed.
- (2) Make written findings indicating (i) that the authorization of the person to appeal to district court as an indigent was not based upon criteria listed in

G.S. 1-110 and (ii) all information or evidence used to determine that the person would otherwise be authorized to appeal to district court as an indigent.

...
(d) When a defendant in a summary ejectment action has given notice of appeal and perfected the appeal in accordance with G.S. 7A-228(b), the plaintiff may serve upon the defendant a motion to dismiss the appeal if the ~~defendant~~defendant failed to raise a defense orally or in writing in the small claims court and failed to do at least one of the following:

- (1) ~~Failed to raise a defense orally or in writing in the small claims court;~~
- (2) ~~Failed to file~~File a motion, answer, or counterclaim in the district ~~court;~~and court.
- (3) ~~Failed to comply~~Comply with any obligation set forth in the Bond to Stay Execution on Appeal of Summary Ejectment Judgment entered by the court.

The motion to dismiss the appeal shall state that the defendant failed to raise a defense orally or in writing in the small claims court and list all any of the deficiencies committed by the defendant, as described in subdivisions ~~(1), (2), (2)~~ and (3) of this subsection, and shall state that the court will decide the motion to dismiss without a hearing if the defendant fails to respond within 10 days of receipt of the motion. The defendant may defeat the motion to dismiss by responding within 10 days of receipt of the motion by doing ~~any~~at least one of the following acts: (i) if the motion is filed alleging a deficiency described in subdivision (2) of this subsection, by filing a responsive motion, answer, or counterclaim and serving the plaintiff with a copy thereof or (ii) if the motion is filed alleging a deficiency described in subdivision (3) of this subsection, by paying the amount due under the bond to stay execution, if any amount is owed by the defendant. If the defendant is not required by law to make any payment under the bond to stay execution, the court shall not use the failure to make a payment as a basis to dismiss the appeal. The court shall review the file, determine whether the motion satisfies the requirements of this subsection, determine whether the defendant has made a sufficient response to defeat the motion, and shall enter an order resolving the matter without a hearing.

...."

SECTION 3.(b) G.S. 42-31 reads as rewritten:

"§ 42-31. Trial by magistrate.

If the defendant by his answer denies any material allegation in the oath of the plaintiff, the magistrate shall hear the evidence and give judgment as he shall find the facts to be. If the magistrate finds in favor of the plaintiff, the magistrate's judgment shall include an order to the clerk of superior court providing that if the judgment is appealed by the defendant, the clerk of superior court is compelled to pay to the plaintiff any amount specified in subsection (e) or (g) of G.S. 42-34 within five business days of a written request by the plaintiff."

SECTION 3.(c) G.S. 42-34 reads as rewritten:

"§ 42-34. Undertaking on appeal and order staying execution.

...
(e) Upon application of the plaintiff, the clerk of superior court ~~shall~~shall, within five business days of a written request, pay to the plaintiff any amount of the rental payments paid by the defendant into the clerk's office which are not claimed by the defendant in any pleadings.

...
(g) When it appears by stipulation executed by all of the parties or by final order of the court that the appeal has been resolved, the clerk of court ~~shall~~shall, within five business days of a written request, disburse any accrued moneys of the undertaking remaining in the clerk's office according to the terms of the stipulation or order."

PART IV. INCREASE PUNISHMENT FOR WILLFUL AND WANTON DAMAGE TO THE RESIDENTIAL REAL PROPERTY OF ANOTHER

SECTION 4. G.S. 14-127 reads as rewritten:

"§ 14-127. Willful and wanton injury to real property.

If any person shall willfully and wantonly damage, injure or destroy any real property whatsoever, either of a public or private nature, ~~he shall be~~ the person is guilty of a Class 1 misdemeanor. Unless the conduct is covered under some other provision of law providing greater punishment, if any person shall willfully and wantonly damage, injure, or destroy the residential real property of another, and that damage, injury, or destruction results in damages valued at one thousand dollars (\$1,000) or more, the person is guilty of a Class I felony."

PART V. PROHIBIT FRAUDULENT RENTAL, LEASE, OR ADVERTISEMENT FOR SALE OF RESIDENTIAL REAL PROPERTY

SECTION 5. Article 20 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-117.8. Fraudulently renting, leasing, or advertising for sale of residential real property.

(a) Offense Involving Fraudulent Rental or Lease. – It is unlawful to rent or lease residential real property to another person knowing that the renter or lessor has no lawful ownership in the property or leasehold interest in the property.

(b) Offense Involving Fraudulent Advertising. – It is unlawful to list or advertise residential real property for sale knowing that the purported seller has no legal title or authority to sell the property.

(c) Punishment. – Unless the conduct is covered under some other provision of law providing greater punishment, a person who violates this section shall be punished as follows:

(1) A person who violates subsection (a) of this section is guilty of a Class H felony.

(2) A person who violates subsection (b) of this section is guilty of a Class I felony.

(d) In addition to any criminal penalties provided in this section, knowingly renting or leasing residential real property to another person knowing that the renter or lessor has no lawful ownership or leasehold interest in the property shall constitute a violation of G.S. 75-1.1."

PART VI. EFFECTIVE DATE

SECTION 6. Part 1 of this act is effective when it becomes law and applies to instruments presented for registration on or after that date. Part 2 of this act becomes effective October 1, 2025, and applies to judgments rendered on or after that date. Part 3 of this act becomes effective October 1, 2024, and applies to judgments rendered on or after that date. Parts 4 and 5 of this act become effective December 1, 2024, and apply to offenses committed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of June, 2024.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

Roy Cooper
Governor

Approved _____m. this _____ day of _____, 2024