

NORTH CAROLINA GENERAL ASSEMBLY  
1963 SESSION

CHAPTER 1088  
SENATE BILL 442

1 AN ACT TO PROVIDE A METHOD OF SERVICE OF PROCESS UPON NONRESIDENT  
2 OPERATORS OF AIRCRAFT AND UPON THEIR PERSONAL REPRESENTATIVES.

3  
4 The General Assembly of North Carolina do enact:  
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6 **Section 1.** Article 8, subchapter V of Chapter 1 of the General Statutes is amended  
7 by adding a new Section, to be designated as G.S. 1-107.3, to read as follows:

8 **"§ 1-107.3. Service Upon Nonresident Operators of Aircraft and Upon Their Personal**  
9 **Representatives.** (a) The operation, navigation or maintenance by a nonresident or  
10 nonresidents of an airplane, helicopter, glider, dirigible, blimp, balloon, or other aircraft in the  
11 State, either in person or through others, and the acceptance thereby by such nonresident or  
12 nonresidents of the protection of the laws of the State for such aircraft, or the operation,  
13 navigation or maintenance by a nonresident or nonresidents of an airplane, helicopter, glider,  
14 dirigible, blimp, balloon, or other aircraft in the State, either in person or through others, other  
15 than under the laws of the State, shall be deemed equivalent to an appointment by each such  
16 nonresident of the Secretary of State or his successor in office, to be the true and lawful  
17 attorney of each such nonresident and the true and lawful attorney of the executor or  
18 administrator of each such nonresident for service of process, upon whom may be served all  
19 lawful process in any suit, action or proceeding against such nonresident or nonresidents  
20 growing out of any accident or collision in which such nonresident or nonresidents may be  
21 involved while, either in person or through others, operating, navigating, or maintaining an  
22 airplane, helicopter, glider, dirigible, blimp, balloon, or other aircraft in the State; and such  
23 acceptance or such operation, navigating or maintaining in the State of such aircraft shall be a  
24 signification of each such nonresident's agreement that any such process against him or his  
25 administrator, or executor which is so served shall be of the same legal force and effect as if  
26 served on him personally.

27 "(b) Service of such process shall be made in the following manner:

- 28 (1) By leaving a copy therefor, with a fee of one dollar (\$1.00) in the hands of  
29 the Secretary of State, or in his office. Such service, upon compliance with  
30 the other provisions of this Section shall be sufficient service upon said  
31 nonresident.
- 32 (2) Notice of such service of process and copy thereof must be forthwith sent by  
33 registered mail by plaintiff or the Secretary of State to the defendant, and the  
34 entries on the defendant's return receipt shall be sufficient evidence of the  
35 date on which notice of service upon the Secretary of State and copy of  
36 process were delivered to the defendant, on which date service on said  
37 defendant shall be deemed completed. If the defendant refuses to accept the  
38 registered letter, service on the defendant shall be deemed completed on the  
39 date of such refusal to accept as determined by the notations by the postal  
40 authorities on the original envelope, and if such date cannot be so  
41 determined, then service shall be deemed completed on the date that the  
42 registered letter is returned to the plaintiff or the Secretary of State as  
43 determined by the postal marks on the original envelope.

1           "(3) The defendant's return receipt, or the original envelope bearing a notation by  
2           the postal authorities that receipt was refused, and an affidavit by the  
3           plaintiff that notice of mailing the registered letter and refusal to accept was  
4           forthwith sent to the defendant by ordinary mail, together with the plaintiff's  
5           affidavit of compliance with the provisions of this Section must be appended  
6           to the summons or other process and filed with said summons, complaint  
7           and other papers in the cause.

8           "Provided, that where the nonresident aircraft operator has died prior to the  
9           commencement of an action brought pursuant to this Section, service of  
10          process shall be made on the executor or administrator of such nonresident  
11          aircraft operator in the same manner and on the same notice as if provided in  
12          the case of a nonresident aircraft operator.

13          "The court in which the action is pending shall order such continuance as  
14          may be necessary to afford the defendant reasonable opportunity to defend  
15          the action.

16          "(c) The provisions of this Section shall also apply to a resident of the State at the time  
17          of the accident or collision who establishes residence outside the State subsequent to the  
18          accident or collision and to a resident of the State at the time of the accident or collision who  
19          departs from the State subsequent to the accident or collision and remains absent therefrom for  
20          sixty (60) days or more, continuously, whether such absence is intended to be temporary or  
21          permanent."

22          **Sec. 2.** All laws and clauses of laws in conflict with this Act are hereby repealed.

23          **Sec. 3.** This Act shall be in full force and effect from and after its ratification.

24          In the General Assembly read three times and ratified, this the 21st day of June,  
25          1963.