

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 265  
Committee Substitute Favorable 5/8/95

Short Title: Service of Process.

(Public)

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Sponsors:

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Referred to:

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February 23, 1995

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW SERVICE OF PROCESS BY A PRIVATE PROCESS SERVER  
3 WHEN A PROPER OFFICER RETURNS SERVICE OF PROCESS  
4 UNEXECUTED.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 1A-1, Rule 4, is amended by adding a new subsection (h1) to  
7 read:

8 "(h1) Summons – When process returned unexecuted. – If a proper officer returns a  
9 summons or other process unexecuted, the plaintiff or his agent or attorney may cause  
10 service to be made by anyone who is not less than 21 years of age, who is not a party to  
11 the action, and who is not related by blood or marriage to a party to the action or to a  
12 person upon whom service is to be made. This subsection shall not apply to executions  
13 pursuant to Article 28 of Chapter 1 or summary ejection pursuant to Article 3 of  
14 Chapter 42 of the General Statutes."

15 Sec. 2. G.S. 7A-305(d) reads as rewritten:

16 "(d) The following expenses, when incurred, are also assessable or recoverable, as  
17 the case may be:

- 18 (1) Witness fees, as provided by law.
- 19 (2) Jail fees, as provided by law.

- 1 (3) Counsel fees, as provided by law.  
2 (4) Expense of service of process by certified mail and by publication.  
3 (5) Costs on appeal to the superior court, or to the appellate division, as the  
4 case may be, of the original transcript of testimony, if any, insofar as  
5 essential to the appeal.  
6 (6) Fees for personal service and civil process and other sheriff's fees, as  
7 provided by law. Fees for personal service by a private process server  
8 may be recoverable in an amount equal to the actual cost of such service  
9 or fifty dollars (\$50.00), whichever is less, unless the court finds that  
10 due to difficulty of service a greater amount is appropriate.  
11 (7) Fees of guardians ad litem, referees, receivers, commissioners,  
12 surveyors, arbitrators, appraisers, and other similar court appointees, as  
13 provided by law. The fee of such appointees shall include reasonable  
14 reimbursement for stenographic assistance, when necessary.  
15 (8) Fees of interpreters, when authorized and approved by the court.  
16 (9) Premiums for surety bonds for prosecution, as authorized by G.S. 1-  
17 109."

18 Sec. 3. This act becomes effective October 1, 1995, and applies to actions that  
19 are filed or have not reached final judgment on or after that date.