

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

**H**

**2**

**HOUSE BILL 1434  
Committee Substitute Favorable 5/4/05**

Short Title: Electronic Signature Under Rule 4.

(Public)

---

Sponsors:

---

Referred to:

---

April 21, 2005

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE, FOR SERVICE OF PROCESS UPON A NATURAL  
2 PERSON OR FOR PROOF OF PERSONAL SERVICE UNDER RULE 4 OF THE  
3 RULES OF CIVIL PROCEDURE, CERTAIN ELECTRONIC SIGNATURE  
4 CONFIRMATION.  
5

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 1A-1, Rule 4(j)(1) reads as rewritten:

8 "(1) Natural Person. – Except as provided in subsection (2) below, upon a  
9 natural person by one of the following:

- 10 a. By delivering a copy of the summons and of the complaint to  
11 him or by leaving copies thereof at the defendant's dwelling  
12 house or usual place of abode with some person of suitable age  
13 and discretion then residing therein.
- 14 b. By delivering a copy of the summons and of the complaint to an  
15 agent authorized by appointment or by law to be served or to  
16 accept service of process or by serving process upon such agent  
17 or the party in a manner specified by any statute.
- 18 c. By mailing a copy of the summons and of the complaint,  
19 registered or certified mail, return receipt requested, addressed  
20 to the party to be served, and delivering to the addressee.
- 21 d. By depositing with a designated delivery service authorized  
22 pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and  
23 complaint, addressed to the party to be served, delivering to the  
24 addressee, and obtaining a delivery receipt.
- 25 e. By mailing a copy of the summons and of the complaint,  
26 addressed to the party to be served, and delivering to the  
27 addressee, when delivery is confirmed by electronic signature  
28 confirmation, an electronic proof of service that is obtained  
29 from the United States Postal Service Internet Web site, is

1 maintained by the United States Postal Service, and is available  
2 by fax or mail, upon request."

3 **SECTION 2.** G.S. 1A-1, Rule 4(j2)(2) reads as rewritten:

4 "(2) Registered or Certified Mail-Mail, Mail when Delivery is Confirmed  
5 by Electronic Signature Confirmation, or Designated Delivery Service.  
6 – Before judgment by default may be had on service by registered or  
7 certified mail-mail, by mail when delivery is confirmed by electronic  
8 signature confirmation, or by a designated delivery service authorized  
9 pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, the serving  
10 party shall file an affidavit with the court showing proof of such  
11 service in accordance with the requirements of  
12 G.S. 1-75.10(4)G.S. 1-75.10(4), 1-75.10(6), or G.S. 1-75.10(5), as  
13 appropriate. This affidavit together with the return or delivery receipt  
14 or copy of the electronic receipt signed by the person who received the  
15 mail or delivery if not the addressee raises a presumption that the  
16 person who received the mail or delivery and signed the receipt was an  
17 agent of the addressee authorized by appointment or by law to be  
18 served or to accept service of process or was a person of suitable age  
19 and discretion residing in the addressee's dwelling house or usual place  
20 of abode. In the event the presumption described in the preceding  
21 sentence is rebutted by proof that the person who received the receipt  
22 at the addressee's dwelling house or usual place of abode was not a  
23 person of suitable age and discretion residing therein, the statute of  
24 limitation may not be pleaded as a defense if the action was initially  
25 commenced within the period of limitation and service of process is  
26 completed within 60 days from the date the service is declared invalid.  
27 Service shall be complete on the day the summons and complaint are  
28 delivered to the address."

29 **SECTION 3.** G.S. 1-75.10 is amended by adding a new subdivision to read:

30 "(6) Service by Mail When Delivery is Confirmed by Electronic Signature  
31 Confirmation. – In the case of service by mail when delivery is  
32 confirmed by electronic signature confirmation, by affidavit of the  
33 serving party averring all of the following:  
34 a. That a copy of the summons and complaint was deposited in the  
35 post office for mailing.  
36 b. That it was in fact received as confirmed by electronic signature  
37 confirmation, an electronic proof of service that is obtained  
38 from the United States Postal Service Internet Web site, is  
39 maintained by the United States Postal Service, and is available  
40 by fax or mail, upon request; and this confirmation is evidenced  
41 by the attached copy of the electronic signature or other  
42 evidence satisfactory to the court of delivery to the addressee.  
43 c. That the copy of the electronic signature or other evidence is  
44 attached."

1                   **SECTION 4.** This act becomes effective October 1, 2005, and applies to  
2 actions filed on or after that date.