

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1336

Short Title: Service of Process.

(Public)

Sponsors: Senators Marshall, Blackmon, Gulley; Ballance, Folger, Hartsell, Martin of Guilford, Odom, Seymour, Simpson, and Soles.

Referred to: Rules and Operation of the Senate.

May 25, 1994

A BILL TO BE ENTITLED

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

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 1A-1, Rule 4(h), reads as rewritten:

7 "(h) Summons – When proper officer not available. – If at anytime there is not in
8 a county a proper officer, capable of executing process, to whom summons or other
9 process can be delivered for service, or if a proper officer refuses or neglects to execute
10 such process, or if a proper officer returns such process unexecuted, or if such officer is
11 a party to or otherwise interested in the action or proceeding, the clerk of the issuing
12 court, upon the facts being verified before him by written affidavit of the plaintiff or his
13 agent or attorney, shall appoint some suitable person who, after he accepts such process
14 for service, shall execute such process in the same manner, with like effect, and subject
15 to the same liabilities, as if such person were a proper officer regularly serving process
16 in that county. In an action in which a proper officer returns the process unexecuted, the
17 plaintiff or his agent or attorney shall submit to the clerk the name of some suitable
18 person to execute service of process; that person shall be compensated, if at all, by the
19 plaintiff or his agent or attorney, shall not be a party to the action and shall not be less
20 than 21 years of age."

21 Sec. 2. This act becomes effective September 1, 1994, and applies to actions
22 that are filed or have not reached final judgment on or after that date.