

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

SESSION LAW 1997-469
SENATE BILL 372

AN ACT TO AMEND, FOR SERVICE IN A CIVIL ACTION UPON A DEFENDANT LOCATED OUTSIDE THE UNITED STATES, THE TIME LIMITS REGARDING THE SECURING OF AN ENDORSEMENT UPON THE ORIGINAL SUMMONS OR THE SUING OUT OF AN ALIAS OR PLURIES SUMMONS WHEN THE DEFENDANT IS NOT SERVED WITHIN THE TIME ALLOWED FOR SERVICE AND TO VALIDATE NOTARIAL ACTS PERFORMED BY CERTAIN NOTARIES BEFORE JUNE 1, 1997.

The General Assembly of North Carolina enacts:

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

"(d) Summons -- Extension; endorsement, alias and pluries. -- When any defendant in a civil action is not served within the time allowed for service, the action may be continued in existence as to such defendant by either of the following methods of extension:

- (1) The plaintiff may secure an endorsement upon the original summons for an extension of time within which to complete service of process. Return of the summons so endorsed shall be in the same manner as the original process. Such endorsement may be secured within 90 days after the issuance of summons or the date of the last prior endorsement, or
- (2) The plaintiff may sue out an alias or pluries summons returnable in the same manner as the original process. Such alias or pluries summons may be sued out at any time within 90 days after the date of issue of the last preceding summons in the chain of summonses or within 90 days of the last prior endorsement.

Provided, in tax and assessment foreclosures under G.S. 47-108.25 and G.S. 105-374, the first endorsement may be made at any time within two years after the issuance of the original summons, and subsequent endorsements may thereafter be made as in other actions; or an alias or pluries summons may be sued out at any time within two years after the issuance of the original summons, and after the issuance of such alias or pluries summons, the chain of summonses may be kept up as in any other action.

Provided, for service upon a defendant in a place not within the United States, the first endorsement may be made at any time within two years after the issuance of the original summons, and subsequent endorsements may thereafter be made at least once

every two years; or an alias or pluries summons may be sued out at any time within two years after the issuance of the original summons, and after the issuance of such alias or pluries summons, the chain of summonses may be kept up as in any other action if sued out within two years of the last preceding summons in the chain of summonses or within two years of the last prior endorsement.

Provided, further, the methods of extension may be used interchangeably in any case and regardless of the form of the preceding extension."

Section 2. G.S. 10A-16(d), as amended by S.L. 1997-19, reads as rewritten:

"(d) This section applies to notarial acts performed before ~~December 31, 1996.~~ June 1, 1997."

Section 3. Section 1 of this act becomes effective October 1, 1997. The remaining sections of this act are effective when they become law.

In the General Assembly read three times and ratified this the 21st day of August, 1997.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 4:20 p.m. this 1st day of September, 1997