

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

SENATE BILL 881
RATIFIED BILL

AN ACT TO PROVIDE THAT AGREEMENTS, ORDERS, AND FINAL AWARDS
UNDER THE WORKERS' COMPENSATION ACT MAY BE ENTERED AS
JUDGMENTS BY THE CLERK OF SUPERIOR COURT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 97-87 reads as rewritten:

~~"§ 97-87. Filing agreements approved by Commission or awards; judgment in accordance therewith; discharge or restoration of lien.~~

~~Any party in interest may file in the superior court of the county in which the injury occurred a certified copy of a memorandum of agreement approved by the Commission, or of an order or decision of the Commission, or of an award of the Commission unappealed from or of an award of the Commission affirmed upon appeal, whereupon said court shall render judgment in accordance therewith, and notify the parties. Such judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same, as though said judgment had been rendered in a suit duly heard and determined by said court: Provided, if the judgment debtor shall file a certificate duly issued by the Industrial Commission showing compliance with G.S. 97-83 with the clerk of the superior court in the county or counties where such judgment is docketed, then such clerk shall make upon the judgment roll an entry showing the filing of such certificate which shall operate as a discharge of the lien of the said judgment, and no execution shall be issued thereon; provided, further, that if at any time there is default in the payment of any installment due under the award set forth in said judgment the court may, upon application for cause and after 10 days' notice to judgment debtor, order the lien of such judgment restored, and execution may be immediately issued thereon for past due installments and for future installments as they may become due.~~

§ 97-87. Judgments on awards.

(a) As used in this section, 'award' includes the following:

- (1) A form filed, or an award arising, under G.S. 97-18(b), 97-18(d), or 97-82(b).
- (2) A memorandum of agreement approved by the Commission.
- (3) An order or decision of the Commission.
- (4) An award of the Commission from which there has been no appeal.
- (5) An award of the Commission affirmed on appeal.

(b) When an award or portion of an award provides for a sum certain or for a sum that can by computation be made certain, and that sum is due and payable as of the date of the award, a judgment may be docketed as provided in subsection (d) of this section, in an amount equal to that sum.

(c) When an award or portion of an award provides for periodic payments to be made on or after the date of the award, a judgment may be docketed as provided in subsection (d) of this section, in an amount equal to the sum stated in any Certificate of Accrued Arrearages that is issued by the Commission under this subsection. If any payment that has accrued after the date of the award, or after the date specified in the most recent Certificate of Accrued Arrearages issued under this subsection, is not received by the claimant when due, the following procedure is available for obtaining a Certificate of Accrued Arrearages:

- (1) The claimant may file with the Commission a Statement of Accrued Arrearages, on a form approved by the Commission, and shall serve a copy on all parties against whom judgment is sought and their attorney of record.
- (2) Any party against whom judgment is sought may, within 15 days of the date of service of a Statement of Accrued Arrearages, file with the Commission proof of any payments that have been made or other responsive pleadings.
- (3) If no proof or other responsive pleading is filed within 15 days of the date of service of the Statement, the Commission shall immediately issue a Certificate of Accrued Arrearages.
- (4) If proof of payment or other responsive pleading is filed, the Commission shall, within seven days, either issue a Certificate of Accrued Arrearages that shall state the sum of payments due or decline to issue a Certificate of Accrued Arrearages. The Commission shall notify the claimant, the party against whom judgment is sought, and their attorney of record of the Commission's decision.
- (5) If any party disputes the decision of the Commission entered under subdivision (c)(4) of this section, the party may appeal to the full Commission within 10 days of the entry of the decision of the Commission. The nonappealing party may file a response within 10 days of receiving notice of appeal. The notice of appeal shall request one of the following:
 - a. The Commission reconsider the decision entered based on the record and any additional evidence that parties submit with the notice and response.
 - b. A de novo evidentiary hearing before the full Commission.
- (6) The Commission shall grant the request for an evidentiary hearing under sub-subdivision (c)(5)b. of this section if a material issue of fact exists whose resolution is necessary to determine the appeal.
- (7) If a notice of appeal is given under sub-subdivision (c)(5)a. of this section, the Commission shall issue its decision within 10 days of the filing of the response under subdivision (c)(5) of this section. If a notice of appeal is given under sub-subdivision (c)(5)b. of this section, the Commission shall either conduct an evidentiary hearing and issue its decision on the appeal within 90 days of the filing of the response under subdivision (c)(5) of this section or deny the request for the evidentiary hearing and issue its decision within 10 days of the filing of the response under subdivision (c)(5) of this section. Further appeals are governed by G.S. 97-86.
- (8) Each award and each Certificate of Accrued Arrearages shall include the following information:
 - a. The names and addresses of the parties.
 - b. The sum of all principal amounts that have accrued and remain unpaid since the date of the award or since the date of the most recent prior Certificate of Accrued Arrearages.
 - c. The total of any interest that has accrued on the award, as of the date of the Certificate of Accrued Arrearages, since the date of the award or since the date of the most recent prior Certificate of Accrued Arrearages.
 - d. Any costs, penalties, or monetary sanctions included in the award.

(d) Any party in interest may file a certified copy of an award described in subsection (b) of this section, or of a Certificate of Accrued Arrearages, in the office of the clerk of superior court of the county in which the defendant has a place of business

or has property, or in which an injury occurred, or in Wake County. An award shall be accompanied by the party's affidavit stating that the award has become final and the time for making the first payment under the award has expired.

(e) Promptly after a certified copy of an award or of a Certificate of Accrued Arrearages is filed, the clerk shall docket and index a judgment as provided in Chapter 1 of the General Statutes. The principal amount in the award or in the Certificate of Accrued Arrearages shall bear interest at the judgment rate from the date the judgment is docketed. The judgment may be enforced in the same manner as a judgment docketed under Chapter 1 of the General Statutes.

(f) The filing of an award, or of a Certificate of Accrued Arrearages, for docketing as a judgment under this section shall be treated as a civil action for record-keeping purposes. The amount in which the judgment is docketed shall determine the amount of the costs to be collected at the time of filing and assessed pursuant to G.S. 7A-305.

(g) Nothing in this section shall be construed to limit the Commission's authority to impose any other remedy provided by law."

SECTION 2. G.S. 1-209 reads as rewritten:

"§ 1-209. Judgments authorized to be entered by clerk; sale of property; continuance pending sale; writs of assistance and possession.

The clerks of the superior courts are authorized to enter the following judgments:

- (1) All judgments of voluntary nonsuit.
- (2) All consent judgments.
- (3) In all actions upon notes, bills, bonds, stated accounts, balances struck, and other evidences of indebtedness within the jurisdiction of the superior court.
- (4) All judgments by default final and default and inquiry as are authorized by Rule 55 of the Rules of Civil Procedure, and in this section provided.
- (5) In all cases where the clerks of the superior court enter judgment by default final upon any debt secured by mortgage, deed of trust, conditional sale contract or other conveyance of any kind, either real or personal property, or by a pledge of property, the said clerks of the superior court are authorized and empowered to order a foreclosure of such mortgage, deed of trust, conditional sale contract, or other conveyance, and order a sale of the property so conveyed or pledged upon such terms as appear to be just; and the said clerks of the superior court shall have all the power and authority now exercised by the judges of the superior court to appoint commissioners to make such sales, to receive the reports thereof, and to confirm the report of sale or to order a resale, and to that end they are authorized to continue such causes from time to time as may be required to complete the sale, and in the final judgment in said causes they shall order the execution and delivery of all necessary deeds and make all necessary orders disbursing the funds arising from the sale, and may issue writs of assistance and possession upon ten days' notice to parties in possession. The commissioners appointed to make foreclosure sales, as herein authorized, may proceed to advertise such sales immediately after the date of entering judgment and order of foreclosure, unless otherwise provided in said judgment and order.
- (6) All judgments on awards, or on Certificates of Accrued Arrearages, of the Industrial Commission in workers' compensation cases, as defined and provided for in G.S. 97-87.

In any tax foreclosure action pending on March 15, 1939 or thereafter brought under the provisions of G.S. 105-414 in which there is filed no answer which seeks to prevent entry of judgment of sale, the clerk of the superior court may render judgment of sale

and make all necessary subsequent orders and judgments to the same extent as permitted by this section in actions brought to foreclose a mortgage. All such judgments and orders heretofore rendered or made by a clerk of the superior court in such tax foreclosure actions are hereby, as to the authority of the said clerk, ratified and confirmed."

SECTION 3. This act becomes effective June 1, 2002, and applies to all forms filed and awards arising under G.S. 97-18(b), 97-18(d), or 97-82(b) that are filed or that arise before, on, or after that date; all agreements approved by the North Carolina Industrial Commission under the Workers' Compensation Act, Article 1 of Chapter 97 of the General Statutes, that are approved before, on, or after that date; all orders or decisions of the North Carolina Industrial Commission under the Workers' Compensation Act that are entered before, on, or after that date; and all awards of the North Carolina Industrial Commission unappealed from or affirmed upon appeal under the Workers' Compensation Act that are awarded before, on, or after that date, and to all Certificates of Accrued Arrearages that are issued on and after that date.

In the General Assembly read three times and ratified this the 20th day of November, 2001.

Beverly E. Perdue
President of the Senate

James B. Black
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____ .m. this _____ day of _____, 2001