

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH30392-MQ-94B*

Short Title: Private Process Servers-Evictions. (Public)

Sponsors: Representatives Hardister, Szoka, Richardson, and Cunningham (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR AN ELECTION BY THE PLAINTIFF TO UTILIZE A PRIVATE
3 PROCESS SERVER IN COUNTIES WITH POPULATIONS OF TWO HUNDRED FIFTY
4 THOUSAND OR GREATER.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 42-28 reads as rewritten:

7 "**§ 42-28. Summons issued by clerk.**

8 (a) When the lessor or his assignee files a complaint pursuant to G.S. 42-26 or 42-27, and
9 asks to be put in possession of the leased premises, the clerk of superior court shall issue a
10 summons requiring the defendant to appear at a certain time and place not to exceed seven days
11 from the issuance of the summons, excluding weekends and legal holidays, to answer the
12 complaint. The plaintiff may claim rent in arrears, and damages for the occupation of the
13 premises since the cessation of the estate of the lessee, not to exceed the jurisdictional amount
14 established by G.S. 7A-210(1), but if he omits to make such claim, he shall not be prejudiced
15 thereby in any other action for their recovery.

16 (b) In counties with 250,000 or more residents as of the most recent decennial federal
17 census, after the summons is issued, at the election of the plaintiff, the clerk shall either (i) return
18 the summons to the plaintiff or (ii) forward the summons to the sheriff for service. If the
19 magistrate severs the claim for monetary damages pursuant to G.S. 7A-223(b1), the plaintiff may
20 extend the action in accordance with G.S. 1A-1, Rule 4(d)."

21 **SECTION 2.** G.S. 42-29 reads as rewritten:

22 "**§ 42-29. Service of summons.**

23 (a) The officer receiving the summons shall mail a copy of the summons and complaint
24 to the defendant no later than the end of the next business day or as soon as practicable at the
25 defendant's last known address in a stamped addressed envelope provided by the plaintiff to the
26 action. The officer may, within five days of the issuance of the summons, attempt to telephone
27 the defendant requesting that the defendant either personally visit the officer to accept service,
28 or schedule an appointment for the defendant to receive delivery of service from the officer. If
29 the officer does not attempt to telephone the defendant or the attempt is unsuccessful or does not
30 result in service to the defendant, the officer shall make at least one visit to the place of abode of
31 the defendant within five days of the issuance of the summons, but at least two days prior to the
32 day the defendant is required to appear to answer the complaint, excluding legal holidays, at a
33 time reasonably calculated to find the defendant at the place of abode to attempt personal delivery
34 of service. He then shall deliver a copy of the summons together with a copy of the complaint to
35 the defendant, or leave copies thereof at the defendant's dwelling house or usual place of abode



1 with some person of suitable age and discretion then residing therein. If such service cannot be
2 made the officer shall affix copies to some conspicuous part of the premises claimed and make
3 due return showing compliance with this section.

4 (b) As used in this Article, and only with respect to service for summary ejectment
5 proceedings in counties with 250,000 or more residents as of the most recent decennial federal
6 census, the term "process server" shall mean any person over the age of 21 years who is not a
7 party to the action, who is not related by blood or marriage to a party to the action or to a person
8 upon whom service is to be made, and who is hired by the plaintiff or the plaintiff's agent or
9 attorney for the purpose of serving the summons and complaint for summary ejectment, and the
10 term "officer" shall mean the sheriff of the county where the subject premises is situated.

11 (c) As used in this Article, and only with respect to service for summary ejectment
12 proceedings in counties with 250,000 or more residents as of the most recent decennial federal
13 census, a process server may effectuate proper service upon a defendant solely for purposes of
14 summary ejectment by mailing a copy of the issued summons and signed complaint to the
15 defendant no later than the end of the next business day after receipt of said summons and
16 complaint or as soon as practicable at the defendant's last known address in a stamped addressed
17 envelope provided by the plaintiff to the action. The process server shall then deliver a copy of
18 the summons together with a copy of the complaint to the defendant by affixing copies of the
19 summons and complaint to some conspicuous part of the premises claimed and make due return
20 showing compliance with this section in the form of an affidavit of service. Said affidavit of
21 service shall set forth the time, place, and manner by which the requirements set forth herein
22 were completed."

23 **SECTION 3.** This act becomes effective October 1, 2019, and applies to actions for
24 summary ejectment filed on or after that date.