

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 235

Short Title: Judgments & Lis Pendens.

(Public)

Sponsors: Representatives Rhyne; Robinson and Justus.

Referred to: Judiciary.

February 15, 1989

A BILL TO BE ENTITLED

AN ACT TO DELETE OBSOLETE LANGUAGE REGARDING CROSS-INDEXING OF JUDGMENTS AND LIS PENDENS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-233 reads as rewritten:

"§ 1-233. Docketed and indexed; held as of first day of session.

Every judgment of the superior or district court, affecting the right to real property, or requiring in whole or in part the payment of money, shall be entered by the clerk of said superior court on the judgment docket of the court. The entry must contain the names of the parties, the address, if known, of each party against whom judgment is rendered, and the relief granted, date of judgment, and the date, hour and minute of docketing; and the clerk shall ~~keep a cross-index of the whole, with the dates and numbers thereof; however,~~ index the judgment as prescribed by G.S. 7A-109 and the rules of the Director of the Administrative Office of the Courts. However, error or omission in the entry of the address or addresses shall in no way affect the validity, finality or priority of the judgment docketed. ~~In all cases affecting the title to real property the clerk shall enter upon the judgment docket the number and page of the minute docket where the judgment is recorded, and if the judgment does not contain particular description of the lands, but refers to a description contained in the pleadings, the clerk shall enter upon the minute docket, immediately following the judgment, the description so referred to.~~

All judgments rendered in any county by the superior or district court, during a session of the court, and docketed during the same session, or within 10 days thereafter, are held and deemed to have been rendered and docketed on the first day of said

1 session, for the purpose only of establishing equality of priority as among such
2 judgments."

3 Sec. 2. G.S. 1-117 reads as rewritten:

4 **"§ 1-117 ~~Cross-lis pendens.~~**

5 ~~Every notice of pending litigation filed under this Article shall be cross-indexed by the~~
6 ~~clerk of the superior court in a record, called the "Record of Lis Pendens," to be kept by~~
7 ~~him pursuant to G.S. 2-42(6). Every notice of pending litigation filed under this Article~~
8 shall be docketed and indexed by the clerk as prescribed by G.S. 7A-109 and the rules
9 of the Director of the Administrative Office of the Courts."

10 Sec. 3. G.S. 1-116(a) reads as rewritten:

11 **"§ 1-116. Filing of notice of suit.**

12 (a) Any person desiring the benefit of constructive notice of pending litigation
13 must file a separate, independent notice thereof, which notice shall be ~~cross-indexed~~
14 docketed and indexed in accordance with G.S. 1-117, in the following cases:

15 (1) Actions affecting title to real property;

16 (2) Actions to foreclose any mortgage or deed of trust or to enforce any
17 lien on real property; and

18 (3) Actions in which any order of attachment is issued and real property is
19 attached."

20 Sec. 4. G.S. 1-118 reads as rewritten:

21 **"§ 1-118. Effect on subsequent purchasers.**

22 From the ~~cross-indexing-docketing~~ of the notice of lis pendens only is the pendency
23 of the action constructive notice to a purchaser or incumbrancer of the property affected
24 thereby; and every person whose conveyance or incumbrance is subsequently executed
25 or subsequently registered is a subsequent purchaser or incumbrancer, and is bound by
26 all proceedings taken after the ~~cross-indexing-docketing~~ of the notice to the same extent
27 as if he were made a party to the action. For the purposes of this section an action is
28 pending from the time of ~~cross-indexing-docketing~~ the notice."

29 Sec. 5. G.S. 40A-21 reads as rewritten:

30 **"§ 40A-21. Notice of proceedings.**

31 Notice of all proceedings brought hereunder shall be filed with the clerk of superior
32 court of each county in which any part of the land is located in the form and manner
33 provided by G.S. 1-116, and the clerk shall ~~index and cross-index~~ docket and index this
34 notice as required by G.S. 1-117. In the record of lis pendens and in the judgment
35 docket required by G.S. 7A-109 the clerk shall always index the name of the condemnor
36 as the plaintiff and the name of the property owner as the defendant irrespective of
37 whether the condemning party is the plaintiff or defendant. The filing of such notice
38 shall be constructive notice of the proceeding to any person who subsequently acquires
39 any interest in or lien upon said property, and the condemnor shall take all property
40 condemned under this Article free of the claims of any such person."

41 Sec. 6. This act is effective upon ratification.