

NORTH CAROLINA GENERAL ASSEMBLY
1961 SESSION

CHAPTER 1075
SENATE BILL 372

1 AN ACT TO AMEND CHAPTER 84 OF THE GENERAL STATUTES RELATING TO
2 ATTORNEYS AT LAW.

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4 The General Assembly of North Carolina do enact:

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6 **Section 1.** G.S. 84-28(3), 1959 Supplement, Volume 2C, is hereby amended to read
7 as follows:

8 "(3) May invoke the processes of the courts in any case in which they deem it desirable
9 to do so and formulate rules of procedure governing the trial of any such person. Such rules
10 shall make provision for:

- 11 a. Setting forth the charges in the form required for a complaint in a civil action
12 in the Superior Court.
- 13 b. Notice of the charges by the service upon the person charged of a copy of
14 the said complaint. Such service may be made by any officer authorized to
15 serve legal processes wherever the person charged may be found.
- 16 c. The right of the defendant to file a written and verified answer in which he
17 may plead any defense to the merits of the charge, the sufficiency of the
18 charge as alleged, or any other defense available to him. All defenses must
19 be asserted by verified answer.
- 20 d. The right of the person charged to demand a trial:
 - 21 1. In the Superior Court at a regular term for the trial of civil cases by a
22 judge and a jury, or by written agreement of all parties trial by jury
23 may be waived and the facts found by the judge, or
 - 24 2. By a committee of not less than three members of the Bar who are
25 not members of the Council and are actively practicing in the State,
26 such committee to be designated by the Supreme Court, or
 - 27 3. By a committee of not less than three members of the Council. The
28 election permitted shall be made in the answer, and if no election is
29 made in the answer the person charged shall be conclusively deemed
30 to have elected to be tried by a committee of the Council. If the
31 person charged shall not elect to be tried in the Superior Court in
32 term as above provided, he shall be conclusively deemed to have
33 waived all right to a trial by jury.
- 34 e. The certification, if the person charged shall elect to be tried in the Superior
35 Court, of the original complaint and answer shall be made to the Clerk of the
36 Superior Court of the county in which such person shall reside if he resides
37 in this State, or to the Clerk of the Superior Court of Wake County if he does
38 not reside in this State. The proceeding shall not be subject to dismissal if
39 certification is made to the wrong county, but the person charged may move
40 in the Superior Court to which certification is made for removal to the
41 proper county. After certification all proceedings in connection with the
42 charge shall be conducted in the Superior Court in term in accordance with

1 the laws and rules relating to civil actions, with right of appeal to the
2 Supreme Court.

- 3 f. For the trial of the person charged before a committee (if trial by a jury is
4 waived) selected in accordance with the foregoing provisions, which trial
5 shall conform as nearly as practicable to the procedure provided by law
6 before referees in references by consent with the right to appeal to the
7 Superior Court by the filing of exceptions with the Council and from order
8 or judgment of the Council, the entire record shall be filed with the Clerk of
9 the Superior Court of the county in which the person charged resides if he
10 resides within the State, or in Wake County if the person charged does not
11 reside within the State, and thereafter all proceedings in connection with
12 the charge shall be conducted in the Superior Court in term in accordance
13 with the laws and rules relating to civil actions in which there has been a
14 reference by consent, but neither party shall be entitled to a trial by jury.
15 Both parties shall have the right to appeal to the Supreme Court in
16 accordance with the procedure permitting appeals in civil actions."

17 **Sec. 2.** This Act shall not apply to any causes which have been heard before a trial
18 committee or which are pending on appeal to the courts.

19 **Sec. 3.** All laws and clauses of laws in conflict with this Act are hereby repealed.

20 **Sec. 4.** This Act shall become effective July 1, 1961.

21 In the General Assembly read three times and ratified, this the 21st day of June,
22 1961.