

§ 1-305. Clerk to issue, in six weeks; penalty; limitations on issuance.

(a) Subject to the provisions of G.S. 1A-1 (Rule 62) and subsection (b) below, the clerk of superior court shall issue executions on all unsatisfied judgments entered in the clerk's court, which are in full force and effect, upon the request of any party or person entitled thereto and upon payment of the necessary fees; provided, however, that the clerks of the superior court shall issue executions on all judgments entered in their respective courts on forfeiture of bonds in criminal cases within six weeks of the entry of the judgment, without any request or any advance payment of fees. Every clerk who fails to comply with the requirements of this section is liable to be amerced in the sum of one hundred dollars (\$100.00) for the benefit of the party aggrieved, under the same rules that are provided by law for amercing sheriffs, and is further liable to the party injured by suit upon the clerk's bond.

(b) The clerk may not issue an execution unless

- (1) The judgment debtor's exemptions have been designated, or
- (2) The judgment debtor has waived his exemptions as provided in G.S. 1C-1601(c), or
- (3) The clerk determines that the exemptions are inapplicable to the particular claim as authorized by G.S. 1C-1603(a)(3). (1850, c. 17, ss. 1, 2, 3; R.C., c. 45, s. 29; Code, s. 470; Rev., s. 618; C.S., s. 666; 1953, c. 470; 1959, c. 1295; 1973, c. 1070, s. 1; 1981 (Reg. Sess., 1982), c. 1224, s. 15; 2010-96, s. 24(a).)