



SENATE BILL 445: Recording of Court-Filed Documents.

2023-2024 General Assembly

Committee:		Date:	August 14, 2024
Introduced by:	Sen. Daniel	Prepared by:	Michael Johnston*
Analysis of:	Ratified		Staff Attorney

OVERVIEW: *SB 445 would do the following:*

- *Exempt any certified copy of a court-filed document from formatting requirements applicable to paper documents presented to a register of deeds for registration.*
- *Begin the small claims appeal period when a judgment is rendered.*
- *Require written findings of indigency in small claims appeals.*
- *Modify criteria for plaintiff's motion to dismiss summary ejectment appeal.*
- *Require the clerk to disburse certain payments made during summary ejectment appeal within five days of request.*
- *Increase punishment for willful and wanton damage to the residential real property of another.*
- *Prohibit fraudulent rental, lease, or advertisement for sale of residential real property.*

SB 445 was ratified by the General Assembly on June 28, 2024, and vetoed by the Governor on July 8, 2024.

CURRENT LAW AND BILL ANALYSIS:

PART I. ALLOW CERTIFIED COPIES OF COURT-FILED DOCUMENTS FOR REGISTER OF DEEDS

Pursuant to G.S. 161-14(b), instruments presented to a register of deeds for registration on paper, other than financing statements and amendments conforming to the requirements of Article 9 of the Uniform Commercial Code, must meet the following formatting requirements:

- Be eight and one-half inches by eleven inches or eight and one-half inches by fourteen inches.
- Have a blank margin of three inches at the top of the first page and blank margins of at least one-half inches on the remaining sides of the first page and on all sides of subsequent pages.
- Be typed or printed in black on white paper in a legible font. A font size no smaller than nine points is considered legible. Blanks in an instrument can be completed in pen and corrections to an instrument can be made in pen.
- Have text typed or printed on one side of a page only.
- State the type of instrument at the top of the first page.

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Instruments not meeting these requirements can be registered only after paying a \$25 fee for nonstandard documents in addition to all other applicable recording fees. If the instrument's only noncompliance is having a font size smaller than nine points, it can be registered without payment of the fee if, in the discretion of the register of deeds, the instrument is legible.

Paper documents filed with the court must be unfolded and firmly bound with no manuscript cover, and except for wills and exhibits, must be letter size (eight and one-half inches by eleven inches).¹

Section 1 would exempt any certified copy of a court-filed document from the formatting requirements applicable to paper documents presented for registration to a register of deeds.

PART II. ESTABLISH THE SMALL CLAIMS APPEAL PERIOD BEGINNING WHEN A JUDGMENT IS RENDERED

A judgment in a small claim action is "rendered" in writing and signed by the magistrate. Currently, the appeal period in a small claim action begins when the judgment is "entered" by a magistrate.

Section 2(a) would authorize judgment in a small claim action to also be rendered electronically by the magistrate.

Section 2(b) would amend provisions prescribing the start time for the appeal period in a small claim action to refer to the time when a judgment is rendered rather than to the time when the judgment is entered.

PART III. REQUIRE WRITTEN FINDINGS OF INDIGENCY IN SMALL CLAIMS APPEALS, MODIFY CRITERIA FOR PLAINTIFF'S MOTION TO DISMISS SUMMARY EJECTMENT APPEAL, AND REQUIRE THE CLERK TO DISBURSE PAYMENTS WITHIN FIVE DAYS OF A REQUEST

Section 3(a) would amend G.S. 7A-228, which provides the process to appeal a decision of the magistrate in small claims court, as follows:

- Would provide that a judge, magistrate, or clerk authorizing a person to appeal a small claims judgment to district court as an indigent make written findings of criteria, information, or evidence used to determine indigency.
- Would modify the criteria for a plaintiff to file a motion to dismiss a defendant's appeal of a small claims summary ejectment judgment to allow the motion if the defendant fails to raise a defense in small claims court and either: (i) fails to file a motion, answer, or counterclaim in the district court or (ii) fails to comply with the appeal bond requirements for summary ejectment.
- Would require magistrate's judgments in summary ejectment proceedings to include an order to the clerk to compel payment within five business days of request of (i) ongoing rental payments made during appeal and (ii) if the appeal has been resolved, any remaining undisbursed funds.

¹ Rule 5(c) and Rule 5.1(c), General Rules of Practice for the Superior and District Courts.

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PART IV. INCREASE PUNISHMENT FOR WILLFUL AND WANTON DAMAGE TO THE RESIDENTIAL REAL PROPERTY OF ANOTHER

Section 4 would increase the penalty for willful and wanton injury to residential real property from a Class 1 misdemeanor to a Class I felony if the conduct results in damages valued at \$1,000 or more.

PART V. PROHIBIT FRAUDULENT RENTAL, LEASE, OR ADVERTISEMENT FOR SALE OF RESIDENTIAL REAL PROPERTY

Section 5 would enact a new G.S. 14-117.8 as follows:

- Would create a Class H felony for renting or leasing residential real property to a person without lawful ownership in the property or leasehold interest in the property.
- Would create a Class I felony for advertising residential real property for sale when the purported seller has no legal title or authority to sell the property.

EFFECTIVE DATE: SB 445 was ratified by the General Assembly on June 28, 2024, and vetoed by the Governor on July 8, 2024.

** Susan Sitze and Bill Patterson, Staff Attorneys, substantially contributed to this summary.*