

NORTH CAROLINA GENERAL ASSEMBLY
1961 SESSION

CHAPTER 521
HOUSE BILL 648

AN ACT TO AMEND CHAPTER 651 OF THE PUBLIC LAWS OF 1909, AS
AMENDED, RELATING TO THE ESTABLISHING OF A
MUNICIPAL-COUNTY COURT IN GUILFORD COUNTY.

The General Assembly of North Carolina do enact:

Section 1. Chapter 651 of the Public Laws of 1909, as amended, is hereby further amended as follows

"Sec. 1. That the second and third paragraphs of Section 4, Rule 27, which now read as follows:

"A transcript of any judgment rendered by the court may be docketed in the office of the Clerk of the Superior Court of any North Carolina county in the same manner as transcripts of judgments rendered in the Superior Court of one county may be docketed in the office of the Clerk of the Superior Court of other North Carolina counties, and, when so docketed, said judgments shall have the full force and effect of all judgments docketed in the Superior Court.

"Execution upon any judgment rendered in the court may be issued by the clerk of court, assistant clerks of court, or by deputy clerks in the name of the clerk, to the sheriff or other lawful officer of any county in North Carolina where the judgment is docketed, as herein provided, and such execution shall be governed by the laws applicable to executions issued by Clerks of the Superior Court, as prescribed by Article 28, of Chapter 1, of the General Statutes of North Carolina."

are stricken out and the following paragraphs are substituted in lieu thereof:

"On demand of a party in whose favor a judgment has been rendered, a transcript of such judgment may be docketed in the office of the Clerk of Superior Court of Guilford County, and when so docketed shall become a judgment of the Superior Court of said county, and execution upon any such judgment may be issued in the same manner as upon a judgment rendered in the Superior Court.

"No execution shall be entered by the court upon a final judgment. But where an interlocutory judgment or order is entered, and the cause is retained for further trial, orders or judgment by the court, and the interlocutory judgment or order requires the delivery of specific personal property to a party to the action, such interlocutory judgment or order may be enforced by the court by an execution or writ of assistance to which there shall be attached a certified copy of the interlocutory judgment or order. Such execution or writ of assistance shall be directed to the sheriff of any North Carolina county in which the property or some part thereof is located and may be issued

at the same time to different counties and the interlocutory order or judgment upon which such execution or writs are issued shall not be docketed in the counties to which the execution or writs are issued as a condition to the issuance of such execution or writ. The sheriff to whom such execution or writ is directed shall serve the same as in case of the service of other orders and decrees, and if the person, persons, corporation or corporations required by said execution or writ to deliver specific property fails or refuses to comply with the same by delivering said property to the sheriff serving said execution or writ, the same shall thereupon be enforced by the court as in case of contempt. Such executions or writs shall be deemed processes of the court, shall be subscribed by a judge thereof, and when they run out of Guilford County said executions or writs shall be sealed with the seal of the court."

Sec. 2. The words "under execution or otherwise" in the second sentence of Section 4, Rule 28, are stricken out.

Sec. 3. Section 3(c)(2), is hereby amended by substituting a semicolon for the period at the end of said Section 3(c)(2) and adding the following:

"provided, however, that the three thousand dollar (\$3,000.00) limitation on the value of the property in controversy shall not apply to actions for the recovery of personal property when the recovery of the property itself is not the primary relief demanded."

Sec. 4. Section 4, Rule 29(d) which reads as follows:

"(d) The appealing party must immediately after docketing an appeal as aforesaid, give written notice, by registered mail, to the opposing parties or their attorneys of record of the date such appeal is, in fact, docketed in the office of the Clerk of the Superior Court of Guilford County."

is hereby stricken out.

Sec. 5. Section 4, Rule 29(e), is hereby amended by changing its number from Section 4, Rule 29(e) to Section 4, Rule 29(d), and by striking therefrom the following sentence:

"including notice to the opposing party". and the comma appearing thereafter.

Sec. 6. Section 4, Rule 21, is hereby amended by adding at the end of the first paragraph thereof the following:

"The provisions of General Statutes 7-139 to the contrary notwithstanding, or the provisions of any other general or special act to the contrary notwithstanding, the process of the court may run outside Guilford County in those cases within the concurrent jurisdiction of justices of the peace as well as in those causes within the concurrent jurisdiction of the Superior Court, and the running of said process outside Guilford County in those cases within the concurrent jurisdiction of justices of the peace shall not be limited to those cases in which the process of a court of a justice of the peace would run outside the county."

Sec. 7. The words "ten days" in the third paragraph of Section 4, Rule 21, are hereby stricken out and the following are substituted therefor:

"the time as is now or may hereafter be fixed by law for the service of summons in the Superior Court."

Sec. 8. If any part of this Act shall be declared unconstitutional or invalid, the remainder of the Act shall, nevertheless, remain in full force and effect.

Sec. 9. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 10. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 26th day of May, 1961.