

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 1029
HOUSE BILL 1000

1 AN ACT TO AMEND G.S. 105-385 TO PROVIDE FOR THE RETURN OF NOTICE OF
2 ATTACHMENT AND GARNISHMENT TO APPROPRIATE DIVISIONS OF THE
3 GENERAL COURT OF JUSTICE, AND TO PROVIDE FOR HEARINGS BEFORE THE
4 SAME.

5
6 The General Assembly of North Carolina do enact:

7
8 **Section 1.** Subsection (d) of G.S. 105-385 as the same appears in the 1965
9 Replacement Volume 2D of the General Statutes of North Carolina is hereby amended by
10 rewriting the same as follows:

11 "(d) Attachment and Garnishment. Subject to the provisions of this Article governing the
12 priority of rights acquired, the collector may attach wages or other compensation, rents, bank
13 deposits, the proceeds of property subject to levy and sale, or other property incapable of
14 manual delivery: Provided, the same belongs to the taxpayer or has been transferred to another
15 under circumstances which would permit it to be levied upon if it were tangible, or is due to the
16 taxpayer or may become due to him within the calendar year; and the person owing same or
17 having same in his possession shall become liable for the taxes to the extent of the amount he
18 owes or has in his possession: Provided, that not more than ten percent of wages or other
19 compensation for personal services shall be liable to attachment and garnishment for failure to
20 pay taxes.

21 To proceed under this subsection, the collector shall serve or cause to be served upon the
22 taxpayer and the person owing or having in his possession the wages, rents, debts or other
23 things sought to be attached, a notice showing at least:

24 (1) The name of the taxpayer;
25 (2) The amount of the taxes, penalties and costs (including the fees allowed by
26 this subsection) and year or years for which such taxes were levied;
27 (3) The name of the taxing unit or units by which such taxes were levied;
28 (4) A brief description of the thing sought to be attached; and
29 (5) A statement that the person served has the right to appear, within ten days
30 after service, before some designated Division of the General Court of
31 Justice in the county in which the taxing unit lies, and show cause why he
32 should not be compelled to pay said taxes, penalties and costs.

33 Notices concerning two or more taxpayers may be combined if they are to be served upon
34 the same person, but in such case the taxes, penalties and costs charged against each taxpayer
35 must be set forth separately.

36 A copy of each notice shall be retained by the collector and a copy shall be filed, not later
37 than the first business day following the day of service, with the Court before which the notice
38 is returnable, together with a notation of service. Upon entry of judgment, by default or after
39 appearance and hearing, in favor of the taxing unit, the person so served shall become liable for
40 the taxes, penalties and costs, but payment shall not be required from amounts which are to
41 become due to the taxpayer until they actually become due.

42 The fee for serving said notice shall be fixed by the governing body of the taxing unit.
43 Court costs shall be the same as in other proceedings in the appropriate division of the General

1 Court of Justice. Fees and costs shall be added to and collected as part of the taxes, but if
2 judgment is rendered against the taxing unit, such costs and fees shall be paid by the taxing
3 unit. All fees collected by officers shall be disposed of in the same manner as other fees
4 collected by such officers.

5 **Sec. 2.** All laws and clauses of laws in conflict with this Act are hereby repealed.

6 **Sec. 3.** This Act shall become effective in each county upon the establishment of a
7 District Court therein.

8 In the General Assembly read three times and ratified, this the 25th day of June,
9 1969.