

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 290
HOUSE BILL 304

AN ACT TO AMEND G.S. 1A-1, RULE 41(d), TO PROVIDE THAT THE TRIAL JUDGE SHALL STAY PROCEEDINGS OF REVIVED LAWSUITS IN WHICH COSTS HAVE NOT BEEN PAID UNTIL SUCH COSTS ARE PAID.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 41(d), as it appears in the 1969 Replacement of Volume 1A, is amended by rewriting the second sentence and by adding another sentence to read as follows:

"If a plaintiff who has once dismissed an action in any court commences an action based upon or including the same claim against the same defendant before the payment of the costs of the action previously dismissed, unless such previous action was brought in forma pauperis, the court, upon motion of the defendant, shall make an order for the payment of such costs by the plaintiff within 30 days and shall stay the proceedings in the action until the plaintiff has complied with the order. If the plaintiff does not comply with the order, the court shall dismiss the action."

Sec. 2. This act shall become effective on January 1, 1978.

In the General Assembly read three times and ratified, this the 2nd day of May, 1977.