

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-221
HOUSE BILL 1434**

AN ACT TO AUTHORIZE SERVICE OF PROCESS UNDER RULE 4 OF THE
RULES OF CIVIL PROCEDURE BY SIGNATURE CONFIRMATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1A-1, Rule 4(j)(1) reads as rewritten:

- "(1) Natural Person. – Except as provided in subsection (2) below, upon a natural person by one of the following:
- a. By delivering a copy of the summons and of the complaint to ~~him~~ the natural person or by leaving copies thereof at the defendant's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein.
 - b. By delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to be served or to accept service of process or by serving process upon such agent or the party in a manner specified by any statute.
 - c. By mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to the party to be served, and delivering to the addressee.
 - d. By depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to the party to be served, delivering to the addressee, and obtaining a delivery receipt.
 - e. By mailing a copy of the summons and of the complaint by signature confirmation as provided by the United States Postal Service, addressed to the party to be served, and delivering to the addressee. Nothing in this sub-subdivision authorizes the use of electronic mailing for service on the party to be served."

SECTION 2. G.S. 1A-1, Rule 4(j)(2) reads as rewritten:

- "(2) Registered or Certified ~~Mail~~ Mail, Signature Confirmation, or Designated Delivery Service. – Before judgment by default may be had on service by registered or certified ~~mail~~ mail, signature confirmation, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, the serving party shall file an affidavit with the court showing proof of such service in accordance with the requirements of ~~G.S. 1-75.10(4)~~ G.S. 1-75.10(4), ~~or G.S. 1-75.10(5),~~ 1-75.10(5), or 1-75.10(6), as appropriate. This

affidavit together with the return or delivery receipt or copy of the proof of delivery provided by the United States Postal Service signed by the person who received the mail or delivery if not the addressee raises a presumption that the person who received the mail or delivery and signed the receipt was an agent of the addressee authorized by appointment or by law to be served or to accept service of process or was a person of suitable age and discretion residing in the addressee's dwelling house or usual place of abode. In the event the presumption described in the preceding sentence is rebutted by proof that the person who received the receipt at the addressee's dwelling house or usual place of abode was not a person of suitable age and discretion residing therein, the statute of limitation may not be pleaded as a defense if the action was initially commenced within the period of limitation and service of process is completed within 60 days from the date the service is declared invalid. Service shall be complete on the day the summons and complaint are delivered to the address."

SECTION 3. G.S. 1-75.10 is amended by adding a new subdivision to read:

"(6) Service by Signature Confirmation. – In the case of service by signature confirmation as provided by the United States Postal Service, by affidavit of the serving party averring all of the following:

- a. That a copy of the summons and complaint was deposited in the post office for mailing by signature confirmation.
- b. That it was in fact received as evidenced by the attached proof of delivery obtained from the United States Postal Service, or other evidence satisfactory to the court of delivery to the addressee.
- c. That the copy of the signature confirmation or other evidence of delivery is attached."

SECTION 4. This act becomes effective October 1, 2005, and applies to actions filed on or after that date.

In the General Assembly read three times and ratified this the 20th day of July, 2005.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 2:00 p.m. this 27th day of July, 2005