

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 832

Short Title: Extend Long Arm Statute.

(Public)

Sponsors: Representatives Richardson; Baddour, Braswell, Hackney, B. Miller, and Wright.

Referred to: Judiciary I.

April 8, 1993

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT A NORTH CAROLINA COURT HAS PERSONAL JURISDICTION OVER ACTIONS ARISING FROM DIRECT AND INDIRECT SOLICITATIONS MADE FROM OUT-OF-STATE AND RECEIVED IN THIS STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-75.4 reads as rewritten:

"§ 1-75.4. Personal jurisdiction, grounds for generally.

A court of this State having jurisdiction of the subject matter has jurisdiction over a person served in an action pursuant to Rule 4(j) or Rule 4(j1) of the Rules of Civil Procedure under any of the following circumstances:

- (1) Local Presence or Status. – In any action, whether the claim arises within or without this State, in which a claim is asserted against a party who when service of process is made upon such party:
 - a. Is a natural person present within this State; or
 - b. Is a natural person domiciled within this State; or
 - c. Is a domestic corporation; or
 - d. Is engaged in substantial activity within this State, whether such activity is wholly interstate, intrastate, or otherwise.

- (2) Special Jurisdiction Statutes. – In any action which may be brought under statutes of this State that specifically confer grounds for personal jurisdiction.

- 1 (3) Local Act or Omission. – In any action claiming injury to person or
2 property or for wrongful death within or without this State arising out
3 of an act or omission within this State by the defendant.
- 4 (4) Local Injury; Foreign Act. – In any action for wrongful death
5 occurring within this State or in any action claiming injury to person or
6 property within this State arising out of an act or omission outside this
7 State by the defendant, provided in addition that at or about the time of
8 the injury either:
9 a. Solicitation or services activities were carried on within this
10 State by or on behalf of the defendant; or
11 b. Products, materials or thing processed, serviced or
12 manufactured by the defendant were used or consumed, within
13 this State in the ordinary course of trade.
- 14 (5) Local Services, Goods or Contracts. – In any action which:
15 a. Arises out of a promise, made anywhere to the plaintiff or to
16 some third party for the plaintiff's benefit, by the defendant to
17 perform services within this State or to pay for services to be
18 performed in this State by the plaintiff; or
19 b. Arises out of services actually performed for the plaintiff by the
20 defendant within this State, or services actually performed for
21 the defendant by the plaintiff within this State if such
22 performance within this State was authorized or ratified by the
23 defendant; or
24 c. Arises out of a promise, made anywhere to the plaintiff or to
25 some third party for the plaintiff's benefit, by the defendant to
26 deliver or receive within this State, or to ship from this State
27 goods, documents of title, or other things of value; or
28 d. Relates to goods, documents of title, or other things of value
29 shipped from this State by the plaintiff to the defendant on his
30 order or direction; or
31 e. Relates to goods, documents of title, or other things of value
32 actually received by the plaintiff in this State from the
33 defendant through a carrier without regard to where delivery to
34 the carrier occurred.
- 35 (6) Local Property. – In any action which arises out of:
36 a. A promise, made anywhere to the plaintiff or to some third
37 party for the plaintiff's benefit, by the defendant to create in
38 either party an interest in, or protect, acquire, dispose of, use,
39 rent, own, control or possess by either party real property
40 situated in this State; or
41 b. A claim to recover for any benefit derived by the defendant
42 through the use, ownership, control or possession by the
43 defendant of tangible property situated within this State either at

- 1 the time of the first use, ownership, control or possession or at
2 the time the action is commenced; or
- 3 c. A claim that the defendant return, restore, or account to the
4 plaintiff for any asset or thing of value which was within this
5 State at the time the defendant acquired possession or control
6 over it.
- 7 (7) Deficiency Judgment on Local Foreclosure or Resale. – In any action
8 to recover a deficiency judgment upon an obligation secured by a
9 mortgage, deed of trust, conditional sale, or other security instrument
10 executed by the defendant or his predecessor to whose obligation the
11 defendant has succeeded and the deficiency is claimed either:
- 12 a. In an action in this State to foreclose such security instrument
13 upon real property, tangible personal property, or an intangible
14 represented by an indispensable instrument, situated in this
15 State; or
- 16 b. Following sale of real or tangible personal property or an
17 intangible represented by an indispensable instrument in this
18 State under a power of sale contained in any security
19 instrument.
- 20 (8) Director or Officer of a Domestic Corporation. – In any action against
21 a defendant who is or was an officer or director of a domestic
22 corporation where the action arises out of the defendant's conduct as
23 such officer or director or out of the activities of such corporation
24 while the defendant held office as a director or officer.
- 25 (9) Taxes or Assessments. – In any action for the collection of taxes or
26 assessments levied, assessed or otherwise imposed by a taxing
27 authority of this State after the date of ratification of this act.
- 28 (10) Insurance or Insurers. – In any action which arises out of a contract of
29 insurance as defined in G.S. 58-1-10 made anywhere between the
30 plaintiff or some third party and the defendant and in addition either:
- 31 a. The plaintiff was a resident of this State when the event
32 occurred out of which the claim arose; or
- 33 b. The event out of which the claim arose occurred within this
34 State, regardless of where the plaintiff resided.
- 35 (11) Personal Representative. – In any action against a personal
36 representative to enforce a claim against the deceased person
37 represented, whether or not the action was commenced during the
38 lifetime of the deceased, where one or more of the grounds stated in
39 subdivisions (2) to (10) of this section would have furnished a basis for
40 jurisdiction over the deceased had he been living.
- 41 (12) Marital Relationship. – In any action under Chapter 50 that arises out
42 of the marital relationship within this State, notwithstanding
43 subsequent departure from the State, if the other party to the marital
44 relationship continues to reside in this State.

1 (13) Solicitation. – In any action which arises out of a request or appeal of
2 any kind, direct or indirect, received in this State by oral, written,
3 visual, electronic, or other communication, notwithstanding the
4 communication emanates from out-of-State."

5 Sec. 2. This act becomes effective October 1, 1993, and applies to any
6 actions filed on or after that date.