



CHAPTER 1
ARTICLE 35 - ATTACHMENT

N.C.G.S. § 1-440.46.

When plaintiff prevails in principal action.

SOURCE General Statutes of North Carolina, as published by the General Assembly	LAST AMENDMENT IN THIS TEXT c. 837, s. 9 — second act in the lineage	RETRIEVED 21 September 2026, 05:38 UTC	SOURCE FINGERPRINT 2b06bc08d9acb863b127cad6 - 69c58e6aced6ff95bd6792ea - 46cd75d69ad4850c
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§ 1-440.46(a)

STATUTE OF
LIMITATIONS

If judgment is entered for the plaintiff in the principal action, the sheriff shall satisfy such judgment out of money collected by him or paid to him in the attachment proceeding or out of property attached by him as follows:

- (1) After paying the costs of the action, he shall apply on the judgment as much of the balance of the money in his hands as may be necessary to satisfy the judgment.
- (2) If the money so applied is not sufficient to pay the judgment in full, the sheriff shall, upon the issuance of an execution on the judgment, sell sufficient attached property, except debts and evidences of indebtedness to satisfy the judgment.
- (3) While the judgment remains unsatisfied, and notwithstanding the pendency of the sale of any personal or real property as provided by subdivision (2) of this subsection, the sheriff shall collect and apply on the judgment any debts or evidences of indebtedness attached by him.
- (4) If, after the expiration of six months from the docketing of the judgment, the judgment is not fully satisfied, the sheriff shall, when ordered by the clerk or judge, as provided in subsection (b) of this section, sell all debts and notes and other evidences of indebtedness remaining unpaid in his hands, and shall apply the net proceeds thereof, or as much thereof as may be necessary, to the satisfaction of the judgment. To forestall the running of the statute of limitations, earlier sale may be ordered in the discretion of the court.

§ 1-440.46(b)

In order to secure the sale of the remaining debts and evidences of indebtedness as provided in subsection (a)(4) of this section, the plaintiff may move therefor, either before the clerk or the judge, and shall submit with his motion

- (1) His affidavit setting forth fully the proceedings had by the sheriff since the service of the attachment, listing or describing the property attached, and showing the disposition thereof, and
- (2) The affidavit of the sheriff that he has endeavored to collect the debts or evidences of indebtedness and that there remains uncollected some part thereof.

Upon the filing of such motion, the court to which the motion is made shall give the defendant or his attorney such notice of the hearing thereon as the court may deem reasonable, and by such means as the court may deem best. Upon the hearing, the court may order the sheriff to sell the debts and other evidences of indebtedness remaining in his hands, or may make such other order with respect thereto as the court may deem proper.

§ 1-440.46(c) In case of the sale of a share of stock of a corporation or of property in a warehouse for which a negotiable warehouse receipt has been issued, the sheriff shall execute and deliver to the purchaser a certificate of sale therefor, and the purchaser shall have all the rights with respect thereto which the defendant had.

§ 1-440.46(d) Upon judgment in his favor in the principal action, the plaintiff is entitled to judgment on any bond taken for his benefit therein.

§ 1-440.46(e) When the judgment and all costs of the proceedings have been paid, the sheriff, upon demand of the defendant, shall deliver to the defendant the residue of the attached property or the proceeds thereof.

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
2 ACTS

Amendment lineage

The State prints this history as a single parenthetical at the foot of the section. It is reproduced verbatim in the colophon and unpacked below in order of enactment.

1947	1949	1951
TICK HEIGHT = ACTS IN THAT YEAR DASHED = RECODIFICATION, NOT AMENDMENT		

Nº	YEAR	ACT	CHARACTER
01	1947	c. 693, s. 1	ENACTED
02	1951	c. 837, s. 9	AMENDED

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 1-440.46 (1951).

PINPOINT

N.C. Gen. Stat. § 1-440.46(a) (1951).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

COLOPHON

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HISTORY PARENTHETICAL, AS PRINTED BY THE STATE

(1947, c. 693, s. 1; 1951, c. 837, s. 9.)

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