

UNEMPLOYMENT SECURITY COMMISSION OF NORTH CAROLINA
RALEIGH, NORTH CAROLINA

INTERPRETATION NO. 98

TO: Henry E. Kendall, Chairman

FROM: D. G. Ball, Senior Attorney

RE: Interpretation of General Statute of North Carolina 1-47 – 10 Year
Statute of Limitation on Collection of Judgments

This is in answer to an interoffice memorandum, dated August 30, 1950 from Mr. Martin to you.

The machinery for the levying and the collection of the contributions due by the employer is set out in Chapter 96 of the General Statutes. We call your attention especially to Section 96-4(o) and Section 96-10(b). The General Assembly passed the act empowering the Commission to collect the Unemployment Compensation contributions in accordance with its provisions.

Section 96-4(o) in part is as follows:

“The decision or determination of the commission when docketed in the office of the clerk of the superior court of any county and when properly indexed and cross indexed shall have the same force and effect as a judgment rendered by the superior court ***.”

Section 96-10(b) provides in part that:

“*** if any contribution imposed by this chapter, or any portion thereof, and/or penalties duly provided for the nonpayment thereof shall not be paid within thirty days after the same become due and payable, and after due notice and reasonable opportunity for hearing, the commission under the hand of its chairman, may certify the same in duplicate and forward one copy thereof to the clerk of the superior court of the county in which the delinquent resides or has property and additional copies for each county in which the commission has reason to believe such delinquent has property located, which copy so forwarded to the clerk of the superior court shall be immediately docketed by said clerk and indexed on the cross index of judgment, and from the date of such docketing shall constitute a preferred lien upon any property which said delinquent may own in said county, with the same force and effect as a judgment rendered by the superior court; ***”

It will be noted in both sections of the law relative to the docketing of a judgment for contributions by the Commission that the legislature provided that upon the docketing of a judgment it will have “the same force and effect as a judgment rendered by the superior court.”

The Statute of Limitation (General Statute 1-47) with respect to bringing an action on a judgment of the superior court is in effect as follows:

Action must be brought within ten years upon a judgment or decree of any court of the United States, or of any state or territory thereof, from the date of its rendition. No such action may be brought more than once, or have the effect to continue the lien of the original judgment.

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I have conferred with Mr. Ralph Moody, Assistant Attorney General, in regard to this matter, and we are in accord in our views that our statute is so written that it places our contributions judgment on the same plane as a judgment of the superior court, for the statute plainly sets out that a judgment of the Commission, when properly docketed, will have “the same force and effect as a judgment rendered by the superior court.” Since we are of the opinion that this is a proper interpretation, the 10-year Statute of Limitation (Section 1-47, supra) would bar any actions on any judgments which have been docketed by the Commission more than 10 years ago. Therefore, we suggest that no action be taken on judgments barred by the Statute of Limitation.

We realize that the Statute of Limitation never applies to the sovereign unless expressly named therein as our Supreme Court has ruled in the case of *Wilmington vs. Cronly*, 122 N.C. 389. However, we construe the language of the law as having “expressly” provided for a limitation by giving our judgments the same force and effect of judgments rendered by the Superior Court, to which the 10-year Statute of Limitation applies.

In connection with this matter, we suggest that the Commission, except in unusual cases, refrain from instituting suits on judgments on which the Statute of Limitation almost bars action (for example, judgments that have been docketed for 9 years and 11 months), as any action brought to keep the contribution debt within the limitation would not have the effect of continuing the lien of the original judgment. In other words, another judgment secured from a suit on the original judgment would not continue for another 10-year period the lien of the original judgment. We believe that in the great majority of the cases if we cannot collect our judgments in 10 years, then the chances of collection beyond this period would be almost nil. It would be an almost insurmountable and an extremely costly task to institute suits on all of our "old" judgments.

Adopted by the Commission as an official Interpretation on September 12, 1950.