

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1229

Short Title: Jurisdictional Amount Increase.

(Public)

Sponsors: Senators Gulley, Ballantine, and Rand.

Referred to: Judiciary II/Election Laws.

May 21, 1996

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE AMOUNT THAT MAY BE IN CONTROVERSY IN DISTRICT AND SUPERIOR CIVIL COURTS AND TO MAKE CORRESPONDING CHANGES TO THE RULES OF CIVIL PROCEDURE AND NONBINDING ARBITRATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-243 reads as rewritten:

"§ 7A-243. Proper division for trial of civil actions generally determined by amount in controversy.

Except as otherwise provided in this Article, the district court division is the proper division for the trial of all civil actions in which the amount in controversy is ~~ten thousand dollars (\$10,000)~~ twenty-five thousand dollars (\$25,000) or less; and the superior court division is the proper division for the trial of all civil actions in which the amount in controversy exceeds ~~ten thousand dollars (\$10,000)~~ twenty-five thousand dollars (\$25,000).

For purposes of determining the amount in controversy, the following rules apply whether the relief prayed is monetary or nonmonetary, or both, and with respect to claims asserted by complaint, counterclaim, cross-complaint or third-party complaint:

- (1) The amount in controversy is computed without regard to interest and costs.

- 1 (2) Where monetary relief is prayed, the amount prayed for is in
2 controversy unless the pleading in question shows to a legal certainty
3 that the amount claimed cannot be recovered under the applicable
4 measure of damages. The value of any property seized in attachment,
5 claim and delivery, or other ancillary proceeding, is not in controversy
6 and is not considered in determining the amount in controversy.
- 7 (3) Where no monetary relief is sought, but the relief sought would
8 establish, enforce, or avoid an obligation, right or title, the value of the
9 obligation, right, or title is in controversy. Where the owner or legal
10 possessor of property seeks recovery of property on which a lien is
11 asserted pursuant to G.S. 44A-4(a) the amount in controversy is that
12 portion of the asserted lien ~~which~~that is disputed. The judge may require
13 by rule or order that parties make a good faith estimate of the value of
14 any nonmonetary relief sought.
- 15 (4) a. Except as provided in subparagraph c of this subdivision, where a
16 single party asserts two or more properly joined claims, the claims are
17 aggregated in computing the amount in controversy.
- 18 b. Except as provided in subparagraph c, where there are two or
19 more parties properly joined in an action and their interests are
20 aligned, their claims are aggregated in computing the amount in
21 controversy.
- 22 c. No claims are aggregated ~~which~~that are mutually exclusive and
23 in the alternative, or ~~which~~that are successive, in the sense that
24 satisfaction of one claim will bar recovery upon the other.
- 25 d. Where there are two or more claims not subject to aggregation
26 the highest claim is the amount in controversy.
- 27 (5) Where the value of the relief to a claimant differs from the cost thereof
28 to an opposing party, the higher amount is used in determining the
29 amount in controversy."

30 Sec. 2. G.S. 1A-1, Rule 8(a) reads as rewritten:

31 "(a) Claims for relief. – A pleading ~~which~~that sets forth a claim for relief, whether
32 an original claim, counterclaim, crossclaim, or third-party claim shall contain

- 33 (1) A short and plain statement of the claim sufficiently particular to give
34 the court and the parties notice of the transactions, occurrences, or series
35 of transactions or occurrences, intended to be proved showing that the
36 pleader is entitled to relief, and
- 37 (2) A demand for judgment for the relief to which ~~he deems himself the~~
38 pleader claims to be entitled. Relief in the alternative or of several
39 different types may be demanded. In all negligence actions, and in all
40 claims for punitive damages in any civil action, wherein the matter in
41 controversy exceeds the sum or value of ~~ten thousand dollars (\$10,000),~~
42 twenty-five thousand dollars (\$25,000), the pleading shall not state the
43 demand for monetary relief, but shall state that the relief demanded is

1 for damages incurred or to be incurred in excess of ~~ten thousand dollars~~
2 ~~(\$10,000)-twenty-five thousand dollars (\$25,000)~~. However, at any time
3 after service of the claim for relief, any party may request of the
4 claimant a written statement of the monetary relief sought, and the
5 claimant shall, within 30 days after such service, provide ~~such that~~
6 statement, which shall not be filed with the clerk until the action has
7 been called for trial or entry of default entered. ~~Such~~ The statement may
8 be amended in the manner and at times as provided by Rule 15."

9 Sec. 3. G.S. 7A-37.1 reads as rewritten:

10 **"§ 7A-37.1. Statewide court-ordered, nonbinding arbitration in certain civil actions.**

11 (a) The General Assembly finds that court-ordered, nonbinding arbitration may be
12 a more economical, efficient and satisfactory procedure to resolve certain civil actions
13 than by traditional civil litigation and therefore authorizes court-ordered nonbinding
14 arbitration as an alternative civil procedure, subject to these provisions.

15 (b) The Supreme Court of North Carolina may adopt rules governing this
16 procedure and may supervise its implementation and operation through the
17 Administrative Office of the Courts. These rules shall ensure that no party is deprived of
18 the right to jury trial and that any party dissatisfied with an arbitration award may have
19 trial de novo.

20 (c) This procedure may be employed in civil actions where claims do not exceed
21 ~~fifteen thousand dollars (\$15,000)-twenty-five thousand dollars (\$25,000)~~.

22 (d) This procedure may be implemented in a judicial district, in selected counties
23 within a district, or in any court within a district, if the Director of the Administrative
24 Office of the Courts, and the cognizant Senior Resident Superior Court Judge or the
25 Chief District Court Judge of any court selected for this procedure, determine that use of
26 this procedure may assist in the administration of justice toward achieving objectives
27 stated in subsection (a) of this section in a judicial district, county, or court. The Director
28 of the Administrative Office of the Courts, acting upon the recommendation of the
29 cognizant Senior Resident Superior Court Judge or Chief District Court Judge of any
30 court selected for this procedure, may terminate this procedure in any judicial district,
31 county, or court upon a determination that its use has not accomplished objectives stated
32 in subsection (a) of this section.

33 (e) Arbitrators in this procedure shall have the same immunity as judges from civil
34 liability for their official conduct."

35 Sec. 4. This act becomes effective October 1, 1996, and applies to claims filed
36 on or after that date.