

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 939
Committee Substitute Favorable 4/21/99
Senate Judiciary II Committee Substitute Adopted 7/12/99

Short Title: Raise Small Claims Amount.

(Public)

Sponsors:

Referred to:

April 7, 1999

A BILL TO BE ENTITLED
AN ACT TO INCREASE THE AMOUNT THAT MAY BE IN CONTROVERSY IN
SMALL CLAIMS COURT AND GIVE MAGISTRATES WHO ARE ATTORNEYS
THAT ARE LICENSED TO PRACTICE LAW IN NORTH CAROLINA
ADDITIONAL AUTHORITY TO ACCEPT BINDING WAIVERS OF COUNSEL
IN CRIMINAL CASES AND CIVIL CONTEMPT CASES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-210 reads as rewritten:

"§ 7A-210. Small claim action defined.

For purposes of this Article a small claim action is a civil action wherein:

- (1) The amount in controversy, computed in accordance with G.S. 7A-243, does not exceed ~~three thousand dollars (\$3,000);~~ four thousand dollars (\$4,000); and
- (2) The only principal relief prayed is monetary, or the recovery of specific personal property, or summary ejection, or any combination of the foregoing in properly joined claims; and
- (3) The plaintiff has requested assignment to a magistrate in the manner provided in this Article.

1 The seeking of the ancillary remedy of claim and delivery or an order from the clerk
2 of superior court for the relinquishment of property subject to a lien pursuant to G.S 44A-
3 4(a) does not prevent an action otherwise qualifying as a small claim under this
4 Article from so qualifying."

5 Section 2. G.S. 7A-273 reads as rewritten:

6 **"§ 7A-273. Powers of magistrates in infractions or criminal actions.**

7 (a) In criminal actions or infractions, any magistrate has power:

- 8 (1) In infraction cases in which the maximum penalty that can be imposed
9 is not more than fifty dollars (\$50.00), exclusive of costs, or in Class 3
10 misdemeanors, other than the types of infractions and misdemeanors
11 specified in subdivision (2) of this ~~section~~, subsection, to accept guilty
12 pleas or admissions of responsibility and enter judgment;
- 13 (2) In misdemeanor or infraction cases involving alcohol offenses under
14 Chapter 18B of the General Statutes, traffic offenses, hunting, fishing,
15 State park and recreation area rule offenses under Chapter 113 of the
16 General Statutes, boating offenses under Chapter 75A of the General
17 Statutes, and littering offenses under G.S. 14-399(c), to accept written
18 appearances, waivers of trial or hearing and pleas of guilty or
19 admissions of responsibility, in accordance with the schedule of
20 offenses and fines or penalties promulgated by the Conference of Chief
21 District Judges pursuant to G.S. 7A-148, and in such cases, to enter
22 judgment and collect the fines or penalties and costs;
- 23 (3) To issue arrest warrants valid throughout the State;
- 24 (4) To issue search warrants valid throughout the county;
- 25 (5) To grant bail before trial for any noncapital offense;
- 26 (6) Notwithstanding the provisions of subdivision (1) of this section, to hear
27 and enter judgment as the chief district judge shall direct in all worthless
28 check cases brought under G.S. 14-107, when the amount of the check
29 is two thousand dollars (\$2,000) or less. Provided, however, that under
30 this section magistrates may not impose a prison sentence longer than
31 30 days;
- 32 (7) To conduct an initial appearance as provided in G.S. 15A-511; and
- 33 (8) To accept written appearances, waivers of trial and pleas of guilty in
34 violations of G.S. 14-107 when the amount of the check is two thousand
35 dollars (\$2,000) or less, restitution, including service charges and
36 processing fees allowed by G.S. 14-107, is made, and the warrant does
37 not charge a fourth or subsequent violation of this statute, and in these
38 cases to enter judgments as the chief district judge directs.
- 39 (9) Repealed by Session Laws 1991 (Regular Session, 1992), c. 900, s.
40 118(d).

41 (b) In criminal actions or infractions, a magistrate who is licensed to practice law
42 in this State has the additional authority, if so assigned by the chief district court judge
43 and subject to any limitations imposed by the chief district court judge:

1 (1) To accept binding waivers of counsel in criminal cases."

2 Section 3. G.S. 7A-292 reads as rewritten:

3 **"§ 7A-292. Additional powers of magistrates.**

4 (a) In addition to the jurisdiction and powers assigned in this Chapter to the
5 magistrate in civil and criminal actions, each magistrate has the following additional
6 powers:

7 (1) To administer oaths;

8 (2) To punish for direct criminal contempt subject to the limitations
9 contained in Chapter 5A of the General Statutes of North Carolina;

10 (3) When authorized by the chief district judge, to take depositions and
11 examinations before trial;

12 (4) To issue subpoenas and capiases valid throughout the county;

13 (5) To take affidavits for the verification of pleadings;

14 (6) To issue writs of habeas corpus ad testificandum, as provided in G.S.
15 17-41;

16 (7) To assign a year's allowance to the surviving spouse and a child's
17 allowance to the children as provided in Chapter 30, Article 4, of the
18 General Statutes;

19 (8) To take acknowledgments of instruments, as provided in G.S. 47-1;

20 (9) To perform the marriage ceremony, as provided in G.S. 51-1;

21 (10) To take acknowledgment of a written contract or separation agreement
22 between husband and wife; and

23 (11) Repealed by Session Laws 1973, c. 503, s. 9.

24 (12) To assess contribution for damages or for work done on a dam, canal, or
25 ditch, as provided in G.S. 156-15.

26 (13) Repealed by Session Laws 1973, c. 503, s. 9.

27 (b) In addition to the jurisdiction and powers assigned in this Chapter to the
28 magistrate in civil and criminal actions, a magistrate who is licensed to practice law in
29 this State has the additional authority, if so assigned by the chief district court judge and
30 subject to any limitations imposed by the chief district court judge:

31 (1) To accept binding waivers of counsel in civil contempt cases."

32 Section 4. This act becomes effective October 1, 1999, and applies to claims
33 filed for causes of action arising on or after that date.