

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 452
House Committee Substitute Favorable 6/3/13
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Short Title: Jurisdictional Amts/Arbitration/Sm Claims Ct.

(Public)

Sponsors:

Referred to:

March 27, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE JURISDICTIONAL AMOUNTS IN THE GENERAL COURT
3 OF JUSTICE, TO MAKE ARBITRATION MANDATORY IN CERTAIN CIVIL CASES,
4 AND TO PROVIDE GUIDANCE TO THE COURT FOR THE ASSESSMENT OF
5 COURT COSTS AND ATTORNEYS' FEES IN SMALL CLAIMS MATTERS WHEN
6 AN ARBITRATOR'S DECISION IN FAVOR OF THE APPELLEE IS AFFIRMED ON
7 APPEAL.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 7A-210 reads as rewritten:

10 **"§ 7A-210. Small claim action defined.**

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

- 12 (1) The amount in controversy, computed in accordance with G.S. 7A-243, does
13 not exceed ~~five thousand dollars (\$5,000);~~ ten thousand dollars (\$10,000);
14 and
15 (2) The only principal relief prayed is monetary, or the recovery of specific
16 personal property, or summary ejectment, or any combination of the
17 foregoing in properly joined claims; and
18 (3) The plaintiff has requested assignment to a magistrate in the manner
19 provided in this Article.

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

24 **SECTION 2.** G.S. 7A-243 reads as rewritten:

25 **"§ 7A-243. Proper division for trial of civil actions generally determined by amount in
26 controversy.**

27 Except as otherwise provided in this Article, the district court division is the proper division
28 for the trial of all civil actions in which the amount in controversy is ~~ten thousand dollars~~
29 ~~(\$10,000)~~ twenty-five thousand dollars (\$25,000) or less; and the superior court division is the
30 proper division for the trial of all civil actions in which the amount in controversy exceeds ~~ten~~
31 ~~thousand dollars (\$10,000)~~ twenty-five thousand dollars (\$25,000).

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

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

28 **SECTION 3.** G.S. 7A-37.1 reads as rewritten:

29 **"§ 7A-37.1. Statewide court-ordered, nonbinding arbitration in certain civil actions.**

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

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

38 (c) ~~This~~ Except as otherwise provided in rules promulgated by the Supreme Court of
39 North Carolina pursuant to subsection (b) of this section, this procedure ~~may~~ shall be employed
40 in all civil actions where claims do not exceed ~~fifteen thousand dollars (\$15,000), except that it~~
41 ~~shall not be employed in actions in which the sole claim is an action on an account, including~~
42 ~~appeals from magistrates on such actions twenty-five thousand dollars (\$25,000), unless all~~
43 parties to the action waive arbitration under this section.

44 (c1) ~~In~~ Except as provided in subsection (c2) of this section, in cases referred to
45 nonbinding arbitration as provided in this section, a fee of one hundred dollars (\$100.00) shall
46 be assessed per arbitration, to be divided equally among the parties, to cover the cost of
47 providing arbitrators. Fees assessed under this section shall be paid to the clerk of superior
48 court in the county where the case was filed and remitted by the clerk to the State Treasurer.

49 (c2) In appeals in small claims actions under Article 19 of Chapter 7A of the General
50 Statutes, if (i) the arbitrator finds in favor of the appellee, (ii) the arbitrator's decision is
51 appealed for trial de novo under G.S. 7A-229, and (iii) the arbitrator's decision is affirmed on

1 appeal, then the court shall consider the fact that the arbitrator's decision was affirmed as a
2 significant factor in favor of assessing all court costs and attorneys' fees associated with the
3 case in both the original action and the two appeals, including the arbitration fee assessed under
4 subsection (c1) of this section, against the appellant.

5 (d) This procedure may be implemented in a judicial district, in selected counties within
6 a district, or in any court within a district, if the Director of the Administrative Office of the
7 Courts, and the cognizant Senior Resident Superior Court Judge or the Chief District Court
8 Judge of any court selected for this procedure, determine that use of this procedure may assist
9 in the administration of justice toward achieving objectives stated in subsection (a) of this
10 section in a judicial district, county, or court. The Director of the Administrative Office of the
11 Courts, acting upon the recommendation of the cognizant Senior Resident Superior Court
12 Judge or Chief District Court Judge of any court selected for this procedure, may terminate this
13 procedure in any judicial district, county, or court upon a determination that its use has not
14 accomplished objectives stated in subsection (a) of this section.

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

17 **SECTION 4.** Notwithstanding the provisions of G.S. 7A-243 as amended by this
18 act, from August 1, 2013, until June 30, 2015, either the district court or the superior court is
19 the proper division for trial of civil actions in which the amount in controversy is between ten
20 thousand dollars (\$10,000) and twenty-five thousand dollars (\$25,000).

21 **SECTION 5.** G.S. 6-21.1(a) reads as rewritten:

22 "(a) In any personal injury or property damage suit, or suit against an insurance company
23 under a policy issued by the defendant insurance company in which the insured or beneficiary
24 is the plaintiff, instituted in a court of record, upon findings by the court (i) that there was an
25 unwarranted refusal by the defendant to negotiate or pay the claim which constitutes the basis
26 of such suit, (ii) that the amount of damages recovered is ~~twenty thousand dollars (\$20,000)~~
27 twenty-five thousand dollars (\$25,000) or less, and (iii) that the amount of damages recovered
28 exceeded the highest offer made by the defendant no later than 90 days before the
29 commencement of trial, the presiding judge may, in the judge's discretion, allow a reasonable
30 attorneys' fees to the duly licensed attorneys representing the litigant obtaining a judgment for
31 damages in said suit, said attorneys' fees to be taxed as a part of the court costs. The attorneys'
32 fees so awarded shall not exceed ten thousand dollars (\$10,000)."

33 **SECTION 6.** This act becomes effective August 1, 2013, and applies to actions
34 filed on or after that date.