

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 741

Short Title: Jurisdictional Amts/Arbitration/Sm Claims Ct. (Public)

Sponsors: Senators Goolsby; D. Berger, Blake, Daniel, Forrester, Hise, and Vaughan.

Referred to: Judiciary I.

April 20, 2011

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 thousand dollars (\$20,000) 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 thousand dollars (\$20,000).

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.  
36 (2) Where monetary relief is prayed, the amount prayed for is in controversy  
37 unless the pleading in question shows to a legal certainty that the amount



1 claimed cannot be recovered under the applicable measure of damages. The  
2 value of any property seized in attachment, claim and delivery, or other  
3 ancillary proceeding, is not in controversy and is not considered in  
4 determining the amount in controversy.

5 (3) Where no monetary relief is sought, but the relief sought would establish,  
6 enforce, or avoid an obligation, right or title, the value of the obligation,  
7 right, or title is in controversy. Where the owner or legal possessor of  
8 property seeks recovery of property on which a lien is asserted pursuant to  
9 G.S. 44A-4(a) the amount in controversy is that portion of the asserted lien  
10 which is disputed. The judge may require by rule or order that parties make a  
11 good faith estimate of the value of any nonmonetary relief sought.

12 (4) a. Except as provided in subparagraph c of this subdivision, where a single  
13 party asserts two or more properly joined claims, the claims are aggregated  
14 in computing the amount in controversy.

15 b. Except as provided in subparagraph c, where there are two or more  
16 parties properly joined in an action and their interests are aligned,  
17 their claims are aggregated in computing the amount in controversy.

18 c. No claims are aggregated which are mutually exclusive and in the  
19 alternative, or which are successive, in the sense that satisfaction of  
20 one claim will bar recovery upon the other.

21 d. Where there are two or more claims not subject to aggregation the  
22 highest claim is the amount in controversy.

23 (5) Where the value of the relief to a claimant differs from the cost thereof to an  
24 opposing party, the higher amount is used in determining the amount in  
25 controversy."

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

27 **"§ 7A-37.1. Statewide court-ordered, nonbinding arbitration in certain civil actions.**

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

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

36 (c) This procedure ~~may~~ shall be employed in all civil actions where claims do not  
37 exceed ~~fifteen thousand dollars (\$15,000), except that it shall not be employed in actions in~~  
38 ~~which the sole claim is an action on an account, including appeals from magistrates on such~~  
39 ~~actions.~~ twenty thousand dollars (\$20,000), unless all parties to the action waive arbitration  
40 under this section.

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

46 (c2) In appeals in small claims actions under Article 19 of Chapter 7A of the General  
47 Statutes, if (i) the arbitrator finds in favor of the appellee, (ii) the arbitrator's decision is  
48 appealed for trial de novo under G.S. 7A-229, and (iii) the arbitrator's decision is affirmed on  
49 appeal, then the court shall consider the fact that the arbitrator's decision was affirmed as a  
50 significant factor in favor of assessing all court costs and attorneys' fees associated with the

1 case in both the original action and the two appeals, including the arbitration fee assessed under  
2 subsection (c1) of this section, against the appellant.

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

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

15 **SECTION 4.** This act becomes effective July 1, 2011, and applies to actions filed  
16 on or after that date.