

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1111
Committee Substitute Favorable 4/28/89

Short Title: Small Claims Amount Increased.

(Public)

Sponsors:

Referred to:

April 7, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE JURISDICTIONAL AMOUNT IN SMALL CLAIMS
3 COURT.

4 The General Assembly of North Carolina enacts:

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

6 "§ 7A-210. Small claim action defined.

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

- 8 (1) The amount in controversy, computed in accordance with G.S. 7A-
9 243, does not exceed ~~one thousand five hundred dollars (\$1,500)~~two
10 thousand dollars (\$2,000); and
- 11 (2) The only principal relief prayed is monetary, or the recovery of
12 specific personal property, or summary ejectment, or any combination
13 of the foregoing in properly joined claims; and
- 14 (3) The plaintiff has requested assignment to a magistrate in the manner
15 provided in this Article.

16 The seeking of the ancillary remedy of claim and delivery or an order from the clerk
17 of superior court for the relinquishment of property subject to a lien pursuant to G.S
18 44A-4(a) does not prevent an action otherwise qualifying as a small claim under this
19 Article from so qualifying."

20 Sec. 2. G.S. 7A-219 reads as rewritten:

21 "§ 7A-219. Certain counterclaims; cross claims; third-party claims not permissible.

22 No counterclaim, cross claim or third-party claim which would make the amount in
23 controversy exceed ~~one thousand five hundred dollars (\$1,500)~~ two thousand dollars

1 (\$2,000) is permissible in a small claim action assigned to a magistrate. No
2 determination of fact or law in an assigned small claim action estops a party thereto in
3 any subsequent action which, except for this section, might have been asserted under the
4 Code of Civil Procedure as a counterclaim in the small claim action."

5 Sec. 3. G.S. 42-28 reads as rewritten:

6 **"§ 42-28. Summons issued by clerk.**

7 When the lessor or his assignee files a complaint pursuant to G.S. 42-26 or 42-27,
8 and asks to be put in possession of the leased premises, the clerk of superior court shall
9 issue a summons requiring the defendant to appear at a certain time and place not to
10 exceed 10 days from the issuance of the summons to answer the complaint. The plaintiff
11 may claim rent in arrears, and damages for the occupation of the premises since the
12 cessation of the estate of the lessee, not to exceed ~~one thousand five hundred dollars~~
13 ~~(\$1,500)~~ two thousand dollars (\$2,000), but if he omits to make such claim, he shall not
14 be prejudiced thereby in any other action for their recovery."

15 Sec. 4. G.S. 42-30 reads as rewritten:

16 **"§ 42-30. Judgment by confession or where plaintiff has proved case.**

17 The summons shall be returned according to its tenor, and if on its return it appears
18 to have been duly served, and if the plaintiff proves his case by a preponderance of the
19 evidence, or the defendant admits the allegations of the complaint, the magistrate shall
20 give judgment that the defendant be removed from, and the plaintiff be put in
21 possession of, the demised premises; and if any rent or damages for the occupation of
22 the premises after the cessation of the estate of the lessee, not exceeding ~~one thousand~~
23 ~~five hundred dollars (\$1,500)~~ two thousand dollars (\$2,000), be claimed in the oath of the
24 plaintiff as due and unpaid, the magistrate shall inquire thereof, and give judgment as he
25 may find the fact to be."

26 Sec. 5. This act shall become effective October 1, 1989, and shall apply to
27 complaints filed with clerks of court on or after that date.