**South Carolina General Assembly**

124th Session, 2021-2022

**H. 3412**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Pendarvis

Document Path: l:\council\bills\jn\3228ph21.docx

Introduced in the House on January 12, 2021

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Arbitration

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/9/2020 House Prefiled

12/9/2020 House Referred to Committee on **Labor, Commerce and Industry**

1/12/2021 House Introduced and read first time ([House Journal‑page 187](file:///h:\hj\20210112.docx))

1/12/2021 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 187](file:///h:\hj\20210112.docx))

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**VERSIONS OF THIS BILL**

[12/9/2020](file:///p:\pprever\2021-22\3412_20201209.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑77‑780 SO AS TO PROVIDE THAT THE ARBITRATION PROCEDURE OUTLINED IN ARTICLE 7 IS INTENDED ONLY FOR PROPERTY DAMAGE LIABILITY CLAIMS ARISING OUT OF MOTOR VEHICLE COLLISIONS OR ACCIDENTS AND NOT FOR CLAIMS FOR BODILY INJURY; TO AMEND SECTION 38‑77‑710, RELATING TO THE APPOINTMENT OF ARBITRATORS SO AS TO REMOVE THE REQUIREMENT THAT AN ARBITRATOR MUST BE AN ATTORNEY; TO AMEND SECTION 38‑77‑720, RELATING TO THE QUALIFICATIONS OF ARBITRATORS, SO AS TO ALLOW FOR THIRD-YEAR LAW SCHOOL STUDENTS TO SERVE AS ARBITRATORS; TO AMEND SECTION 38‑77‑730, RELATING TO THE REQUEST FOR ARBITRATION, SO AS TO PROVIDE A METHOD BY WHICH A DEFENDANT MAY OBJECT TO ARBITRATION; AND TO AMEND SECTION 38‑77‑770, RELATING TO THE RIGHT TO APPEAL DECISIONS, SO AS TO PROVIDE THAT AN APPEAL FROM ARBITRATION IS REVIEWED AS PURSUANT TO APPELLATE COURT RULES AND NOT A DE NOVO TRIAL.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 7, Chapter 77, Title 38 of the 1976 Code is amended by adding:

“Section 38‑77‑780. The procedure outlined in this article is intended only for property damage liability claims arising out of motor vehicle collisions or accidents and is not intended for claims for bodily injury. If a plaintiff initiates an action under this article, he waives his right to file a separate civil action for claims for bodily injury. If the plaintiff alleges both bodily injury and property damage, he may not arbitrate the property damage claim under this article.”

SECTION 2. Section 38‑77‑710 of the 1976 Code is amended to read:

“Section 38‑77‑710. The court of common pleas, or any inferior courts having concurrent jurisdiction, in and for each county, shall by order of reference appoint an arbitrator ~~attorney or attorneys~~ to hear and determine~~, by arbitration,~~ property damage liability claims arising out of motor vehicle collisions or accidents and to award actual and punitive damages. This order must be consistent with the provisions of this chapter and may not be inconsistent with the Rules of the Supreme Court of South Carolina. Process and procedure must be as summary and simple as may be reasonable and may provide for the taking of evidence in the form of reports, statements, or itemized bills or in any other manner without the procedural and evidentiary limitations which pertain in jury trials. The court may provide for the taking of depositions of a witness within or without the State.”

SECTION 3. Section 38‑77‑720 of the 1976 Code is amended to read:

“Section 38‑77‑720. (a) The order of reference shall establish a panel of arbitrators each of whom must be a member of the bar or a third-year law school student who completes training pursuant to S.C. Court‑Annexed ADR Rule 20(c) and the members must be selected for service in particular cases on some fair rotation basis. Three arbitrators shall hear and determine each case and the decision of two of the three arbitrators shall determine the issue. However, the parties to the dispute may, by agreement, provide for determination of the disputed claim by one arbitrator.

(b) Each arbitrator assigned to determine the claim may be compensated, not to exceed thirty‑five dollars for his services and time, payable out of the funds of the court and which may not be taxable as costs to either party.

(c) The claimant who is the moving party in seeking arbitration shall pay to the clerk of court a fee of ten dollars. Five dollars must be retained by the clerk as the cost of filing the claim and final judgment and five dollars must be used to pay the cost of service on the other party or parties.”

SECTION 4. Section 38‑77‑730 of the 1976 Code is amended to read:

“Section 38‑77‑730. (a) Any person who is a party to the disputed property damage liability claim may submit his claim for determination through arbitration. No formal pleading or process is required. The clerk of court of each county shall prepare and keep an arbitration docket and set the cases thereon for arbitration as provided by law for the settling of cases in the court of common pleas.

(b) The claim must be filed with the clerk of court in the county in which the cause of action arose or where the plaintiff or defendant resides. The claim must be filed in triplicate with the clerk of court on forms to be provided by him. The forms shall set forth the names of the parties, the date and place of the accident, and the amount of property damage claimed. The clerk shall file one copy in his office, and one copy must be served upon the defendant as provided by law for service of summons and complaints. The sheriff, or such other person, shall promptly serve the claim upon the defendant and shall receive the sum of five dollars to defray the cost of securing this service. The sheriff, or such other person, serving the process shall promptly file an affidavit of personal service with the clerk of court on forms to be provided by the clerk.

(c) There must be attached to, or made part of, the form a summons to the defendant named notifying him that he should file a response with the clerk of court within thirty days from the date of service and that failure to file a response within thirty days entitles the plaintiff to a default judgment. The form must be signed by the party filing it or his attorney, if any, and shall by order of reference show the address of the person signing it.

(d) The defendant’s response must answer the complaint or refuse to consent to the arbitration panel having jurisdiction over the controversy.

(e) If the defendant does not consent to arbitration, the defendant must raise the issue as a defense in his answer and the case shall be transferred back to the court of common pleas with proper jurisdiction for adjudication. The defendant must notify the court of common pleas that the case is not transferred to arbitration and remains within the jurisdiction of the court of common pleas.”

SECTION 5. Section 38‑77‑770 of the 1976 Code is amended to read:

“Section 38‑77‑770. If any party is dissatisfied with the decision of the arbitrators, or the single arbitrator, he may appeal within twenty days of the decision to the court in which the claim is filed by service upon the other parties of a notice of appeal. Every notice of appeal shall include a statement under oath that the appeal is taken in good faith and not merely for the purpose of delay. ~~The trial on appeal must be a trial de novo~~ A timely appeal of an arbitration decision shall be heard by the court of common pleas and taken in the manner provided by the South Carolina Appellate Court Rules.”

SECTION 6. This act takes effect upon approval by the Governor.

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