

NORTH CAROLINA GENERAL ASSEMBLY  
1963 SESSION

CHAPTER 487  
SENATE BILL 111

AN ACT TO PROVIDE TRANSFER TO SUPERIOR COURT OF CASES  
ORIGINATED IN INFERIOR COURTS, BUT IN WHICH CROSS ACTION OR  
COUNTERCLAIM IN EXCESS OF THE JURISDICTION OF THE INFERIOR  
COURT HAS BEEN FILED.

The General Assembly of North Carolina do enact:

Section 1. G. S. 7-247 is amended by adding a new sentence at the end thereof to read as follows: "When any action either on contract or in tort has been or hereafter is instituted in any court inferior to the Superior Court having jurisdiction of civil actions, and a cross-action or counterclaim is filed for an amount in excess of the jurisdiction of the court in which the action was instituted, both the original action and the cross-action or counterclaim may, upon motion of either plaintiff or defendant, in the discretion of the court, be transferred for trial, on all issues presented, to the Superior Court of the county where the action originated; provided, however, that if the court in which the action is pending fails to transfer such action to the Superior Court upon motion of either plaintiff or defendant, the defendant may elect to take voluntary nonsuit as to the cross-action or counterclaim, and in such event, the determination of the issues on the plaintiff's action in the inferior court, shall not constitute res judicata as to defendant's counterclaim or crossaction in a subsequent action, instituted in the Superior Court of any county by the defendant, nor shall the pendency of such action in the inferior court be ground for abatement of a subsequent action instituted by the defendant in the Superior Court of any county; provided further, however, that the defendant may elect to prosecute his cross-action or counterclaim in the inferior court in which the action was commenced but, in that event, the recovery shall be limited to the jurisdiction of such court, and the determination of the issues raised by the pleadings, shall constitute res judicata in any subsequent action."

Sec. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1963.