**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3168**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Whipper

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Introduced in the House on January 13, 2009

Currently residing in the House Committee on **Judiciary**

Summary: Tort Claims Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/16/2008 House Prefiled

12/16/2008 House Referred to Committee on **Judiciary**

1/13/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\01-13-09.docx)‑75

1/13/2009 House Referred to Committee on **Judiciary** [HJ](file:///h:\HJ%20Archive\2009\01-13-09.docx)‑76

**VERSIONS OF THIS BILL**

[12/16/2008](file:///p:\pprever\2009-10\3168_20081216.docx)

**A** **BILL**

TO AMEND SECTION 15‑78‑100, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA TORT CLAIMS ACT AND INSTITUTING AN ACTION, SO AS TO PROVIDE THAT CERTAIN CAUSES OF ACTION MUST BE FILED IN MAGISTRATES COURT; TO AMEND SECTION 15‑78‑120, RELATING TO LIMITATIONS ON LIABILITY, THE PROHIBITION AGAINST THE RECOVERY OF CERTAIN DAMAGES, AND THE REQUIREMENT OF AN ATTORNEY’S SIGNATURE ON CERTAIN DOCUMENTS, SO AS TO PROVIDE THAT A STATE AGENCY OR POLITICAL SUBDIVISION MAY BE REPRESENTED BY CERTAIN DELINEATED REPRESENTATIVES; AND TO AMEND SECTION 22‑3‑20, RELATING TO CIVIL ACTIONS IN WHICH A MAGISTRATE DOES NOT HAVE JURISDICTION, SO AS TO MAKE CONFORMING CHANGES.

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

SECTION 1. Section 15‑78‑100 of the 1976 Code is amended to read:

“Section 15‑78‑100. ~~(a)~~(A) Except as provided for in Section 15‑3‑40, an action for damages ~~under~~ pursuant to this chapter may be instituted at any time within two years after the loss was or should have been discovered. ~~Provided, that~~ However, if a claim for damages was filed and disallowed or rejected, an action for damages filed ~~under~~ pursuant to this chapter, based upon the same occurrence as the claim, may be instituted within three years after the loss was or should have been discovered.

~~(b)~~(B) Jurisdiction for ~~any~~ an action brought ~~under~~ pursuant to this chapter, except an action seeking damages of seven thousand five hundred dollars or less, is in the circuit court and brought in the county in which the act or omission occurred. An action seeking damages of seven thousand five hundred dollars or less must be filed in the magistrates court in the county in which the act or omission occurred.

~~(c)~~(C) In all actions brought pursuant to this chapter when an alleged joint tortfeasor is named as party defendant in addition to the governmental entity, the trier of fact must return a special verdict specifying the proportion of monetary liability of each defendant against whom liability is determined.”

SECTION 2. Section 15‑78‑120 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( ) In an action seeking damages of seven thousand five hundred dollars or less, the state agency or political subdivision may be represented by a representative of its insurance carrier, department manager, staff person, or another official. However, the representative shall not receive additional compensation for representing a state agency or political subdivision.”

SECTION 3. Section 22‑3‑20 of the 1976 Code is amended to read:

“Section 22‑3‑20. ~~No~~ A magistrate ~~shall~~ does not have ~~cognizance~~ jurisdiction of a civil action:

(1) in which the State is a party, except an action:

(a) ~~an action~~ for a penalty ~~and~~ not exceeding one hundred dollars; or

(b) filed pursuant to the South Carolina Tort Claims Act seeking damages of seven thousand five hundred dollars or less; or

(2) when the title to real property ~~shall come~~ is in question, except as provided in Article 11 ~~of this chapter~~.”

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 5. This act takes effect July 1, 2009, and applies to all actions filed on or after that date.

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