

ENGROSSED SENATE  
BILL NO. 404

By: Henry, Maddox and  
Littlefield of the Senate  
  
and  
  
Steidley of the House

[ small claims procedure - increasing maximum amount of  
small claims  
actions -  
effective date ]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 12 O.S. 1991, Section 1751, as amended by Section 1, Chapter 35, O.S.L. 1992 (12 O.S. Supp. 1994, Section 1751), is amended to read as follows:

Section 1751. A. The following suits may be brought under the small claims procedure:

1. Actions for the recovery of money based on contract or tort, including subrogation claims, but excluding libel or slander, in which the amount sought to be recovered, exclusive of attorneys fees and other court costs, does not exceed ~~Two Thousand Five Hundred Dollars (\$2,500.00)~~. ~~Libel or slander actions may not be brought in the small claims court~~ Four Thousand Five Hundred Dollars (\$4,500.00);

2. Actions to replevy personal property the value of which does not exceed ~~Two Thousand Five Hundred Dollars (\$2,500.00)~~ Four Thousand Five Hundred Dollars (\$4,500.00). If the claims for

possession of personal property and to recover money are ~~pleaded~~  
pled in the alternative, the joinder of claims is permissible if  
neither the value of the property nor the total amount of money  
sought to be recovered, exclusive of attorneys fees and other costs,  
does exceed ~~Two Thousand Five Hundred Dollars (\$2,500.00)~~ Four  
Thousand Five Hundred Dollars (\$4,500.00); and

3. Actions in the nature of interpleader, as provided for in  
Section 2022 of this title, in which the value of the money which is  
the subject of such action does not exceed ~~Two Thousand Five Hundred~~  
~~Dollars (\$2,500.00)~~ Four Thousand Five Hundred Dollars (\$4,500.00).

B. No action may be brought under the small claims  
procedure by any collection agency, collection  
agent, or any assignee of a claim, except that an  
action may be brought against an insurer by a  
health care provider as that term is defined in  
Section 6552 of Title 36 of the Oklahoma Statutes,  
who is an assignee of benefits available under an  
accident and health insurance policy, trust, plan, or  
or contract.

C. In those cases which are uncontested, the amount  
of attorneys fees allowed shall not exceed ten  
percent (10%) of the judgment.

SECTION 2. AMENDATORY 12 O.S. 1991, Section 1759, is  
amended to read as follows:

Section 1759. If a claim, a counterclaim, or a setoff is filed  
for an amount in excess of ~~Two Thousand Five Hundred Dollars~~  
~~(\$2,500.00)~~ Four Thousand Five Hundred Dollars (\$4,500.00), the  
action shall be transferred to another docket of the district court  
unless both parties agree in writing and file said agreement with  
the papers in the action that said claim, counterclaim, or setoff  
shall be tried under the small claims procedure. If such an  
agreement has not been filed, a judgment in excess of ~~Two Thousand~~

~~Five Hundred Dollars (\$2,500.00)~~ Four Thousand Five Hundred Dollars (\$4,500.00) may not be enforced for the part that exceeds ~~Two Thousand Five Hundred Dollars (\$2,500.00)~~ Four Thousand Five Hundred Dollars (\$4,500.00). If the action is transferred to another docket of the district court, the person whose claim exceeded ~~Two Thousand Five Hundred Dollars (\$2,500.00)~~ Four Thousand Five Hundred Dollars (\$4,500.00) shall deposit with the clerk the court costs that are charged in other cases, less any sums that have been already paid to the clerk, or his claim shall be dismissed and the remaining claims, if any, shall proceed under the small claims procedure.

SECTION 3. AMENDATORY 12 O.S. 1991, Section 1761, as amended by Section 2, Chapter 357, O.S.L. 1992 (12 O.S. Supp. 1994, Section 1761), is amended to read as follows:

Section 1761. Actions under the small claims procedure shall be tried to the court without a jury, unless the amount of the claim, counterclaim, or setoff exceeds ~~One Thousand Five Hundred Dollars (\$1,500.00)~~ Four Thousand Five Hundred Dollars (\$4,500.00); provided, if either party wishes a reporter or if either party to an action in which the claim, counterclaim, or setoff exceeds ~~One Thousand Five Hundred Dollars (\$1,500.00)~~ Four Thousand Five Hundred Dollars (\$4,500.00) wishes a jury, he must notify the clerk of the court in writing at least two (2) working days before the date set for the defendant's appearance and must deposit Fifty Dollars (\$50.00) with said notice with the clerk. The plaintiff and the defendant shall have the right to offer evidence in their behalf by witnesses appearing at such hearing, and the judge may call such witnesses and order the production of such documents as he may deem appropriate. The hearing and disposition of such actions shall be informal with the sole object of dispensing speedy justice between the parties.

SECTION 4. This act shall become effective November 1, 1995.

Passed the Senate the 28th day of February, 1995.

President of the Senate

Passed the House of Representatives the \_\_\_\_ day of  
\_\_\_\_\_, 1995.

Speaker of the House of  
Representatives