

ENROLLED HOUSE
BILL NO. 2535

By: Davis of the House

and

Smith of the Senate

An Act relating to civil procedure; amending 12 O.S. 1991, Section 2006, as last amended by Section 20, Chapter 293, O.S.L. 1999 (12 O.S. Supp. 1999, Section 2006), which relates to computation of time prescribed by law, rule, or order; clarifying methods for computation of time prescribed by statute, rule, or order; clarifying statutory references; excluding certain provisions from prescribed methods for computation of time; stating method of computation applicable to certain statutes, rules, and orders unless unjust; increasing time to answer under certain circumstances; providing for computation of time for acts governed by certain titles of law; providing that method of computation is a clarification of law; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 12 O.S. 1991, Section 2006, as last amended by Section 20, Chapter 293, O.S.L. 1999 (12 O.S. Supp. 1999, Section 2006), is amended to read as follows:

Section 2006.

TIME

A. COMPUTATION. 1. In computing any period of time prescribed or allowed by this title, by the rules of any court of this state, or by order of ~~the a court or by any applicable statute, of this state~~, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is ~~a Saturday, a Sunday, or~~ a legal holiday as defined by Section 82.1 of Title 25 of the Oklahoma Statutes or any other day when the office of the court clerk does not remain open for public business until 4:00 p.m. the regularly scheduled closing time, in which event the period runs until the end of the next day which is not ~~a Saturday, a Sunday, or~~ a legal holiday ~~as defined by the Oklahoma Statutes~~ or ~~any other~~ a day when the office of the court clerk does not remain open for public business until 4:00 p.m. When the regularly scheduled closing time. Except for the times provided in Sections 765, 990.3, 1148.4, and 1756 of this title, when the period of time prescribed or allowed is less than eleven (11) days, intermediate Saturdays, Sundays, and legal holidays as defined by the Oklahoma

~~Statutes or~~ and any other day when the office of the court clerk does not remain open for public business until ~~4:00 p.m.~~ the regularly scheduled closing time, shall be excluded ~~in~~ from the computation.

2. For actions filed on or after November 1, 1999, and on or before June 30, 2000, any period of time prescribed or allowed by this title, by the rules of any court, by an order of a court, or by any applicable statute, shall be computed pursuant to the shortest time prescribed by the law in effect before November 1, 1999, the law in effect prior to the effective date of this act, or this act, unless the court finds that to do so would result in injustice.

B. ENLARGEMENT. When by this title or by a notice given thereunder by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion:

1. With or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order; or

2. Upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time set forth in this title for taking an appeal from a judgment, decree or appealable order, or for seeking a new trial, a judgment notwithstanding the verdict, or to correct, open, modify, vacate or reconsider a judgment, decree, or appealable order, except as provided in the sections governing such proceedings.

C. FOR MOTIONS - AFFIDAVITS. A written motion, other than one which may be heard ex parte, and notice of the hearing thereof, shall be served not later than five (5) days before the time specified for the hearing, unless a different period is fixed by the Oklahoma Statutes, court rules, or by an order of the court. Such an order may for cause shown be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion.

D. ADDITIONAL TIME AFTER SERVICE BY MAIL. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon ~~him~~ the party and the notice or paper is served upon ~~him~~ the party by mail, three (3) days shall be added to the prescribed period. ~~Provided; provided,~~ however, when a summons and petition are served by mail, a defendant shall serve ~~his~~ an answer within twenty (20) days or thirty-five (35) days if pursuant to subsection A of Section 2012 of this title, after the date of receipt or if refused, the date of refusal of the summons and petition by the defendant.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-125 of Title 30, unless there is created a duplication in numbering, reads as follows:

The time within which an act is to be done, as provided for in Title 30 of the Oklahoma Statutes, shall be computed by excluding the first day and including the last day. If the last day is a legal holiday as defined by Section 82.1 of Title 25 of the Oklahoma

Statutes, it shall be excluded. The provisions of this section are hereby declared to be a clarification of the law as it existed prior to the effective date of this act and shall not be considered or construed to be a change of the law as it existed prior to the effective date of this act. Any action or proceeding arising under Title 30 of the Oklahoma Statutes prior to the effective date of this act for which a determination of the period of time prescribed by this section is in question or has been in question due to the enactment of Section 20, Chapter 293, O.S.L. 1999, shall be governed by the method for computation of time as prescribed by this section.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 61 of Title 41, unless there is created a duplication in numbering, reads as follows:

The time within which an act is to be done, as provided for in Title 41 of the Oklahoma Statutes, shall be computed by excluding the first day and including the last day. If the last day is a legal holiday as defined by Section 82.1 of Title 25 of the Oklahoma Statutes, it shall be excluded. The provisions of this section are hereby declared to be a clarification of the law as it existed prior to the effective date of this act and shall not be considered or construed to be a change of the law as it existed prior to the effective date of this act. Any action or proceeding arising under Title 41 of the Oklahoma Statutes prior to the effective date of this act for which a determination of the period of time prescribed by this section is in question or has been in question due to the enactment of Section 20, Chapter 293, O.S.L. 1999, shall be governed by the method for computation of time as prescribed by this section.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20 of Title 43, unless there is created a duplication in numbering, reads as follows:

The time within which an act is to be done, as provided for in Title 43 of the Oklahoma Statutes, shall be computed by excluding the first day and including the last day. If the last day is a legal holiday as defined by Section 82.1 of Title 25 of the Oklahoma Statutes, it shall be excluded. The provisions of this section are hereby declared to be a clarification of the law as it existed prior to the effective date of this act and shall not be considered or construed to be a change of the law as it existed prior to the effective date of this act. Any action or proceeding arising under Title 43 of the Oklahoma Statutes prior to the effective date of this act for which a determination of the period of time prescribed by this section is in question or has been in question due to the enactment of Section 20, Chapter 293, O.S.L. 1999, shall be governed by the method for computation of time as prescribed by this section.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 717 of Title 58, unless there is created a duplication in numbering, reads as follows:

The time within which an act is to be done, as provided for in Title 58 of the Oklahoma Statutes, shall be computed by excluding the first day and including the last day. If the last day is a legal holiday as defined by Section 82.1 of Title 25 of the Oklahoma Statutes, it shall be excluded. The provisions of this section are hereby declared to be a clarification of the law as it existed prior to the effective date of this act and shall not be considered or

construed to be a change of the law as it existed prior to the effective date of this act. Any action or proceeding arising under Title 58 of the Oklahoma Statutes prior to the effective date of this act for which a determination of the period of time prescribed by this section is in question or has been in question due to the enactment of Section 20, Chapter 293, O.S.L. 1999, shall be governed by the method for computation of time as prescribed by this section.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3.11 of Title 85, unless there is created a duplication in numbering, reads as follows:

The time within which an act is to be done, as provided for in Title 85 of the Oklahoma Statutes, shall be computed by excluding the first day and including the last day. If the last day is a legal holiday as defined by Section 82.1 of Title 25 of the Oklahoma Statutes, it shall be excluded. The provisions of this section are hereby declared to be a clarification of the law as it existed prior to the effective date of this act and shall not be considered or construed to be a change of the law as it existed prior to the effective date of this act. Any action or proceeding arising under Title 85 of the Oklahoma Statutes prior to the effective date of this act for which a determination of the period of time prescribed by this section is in question or has been in question due to the enactment of Section 20, Chapter 293, O.S.L. 1999, shall be governed by the method for computation of time as prescribed by this section.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 22nd day of May, 2000.

Speaker of the House of
Representatives

Passed the Senate the 22nd day of May, 2000.

President of the Senate