

EHB 2535

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THE STATE SENATE
Thursday, March 30, 2000

ENGROSSED
House Bill No. 2535
As Amended

ENGROSSED HOUSE BILL NO. 2535 - By: DAVIS of the House and SMITH of the Senate.

[civil procedure - time computation and requirements - Oklahoma Pleading Code - filings and proceedings - 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. In computing any period of time prescribed or allowed by this title, by the rules of any court, by order of the court, or by any applicable statute, 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 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.~~, in which event the period runs until the end of the next day

1 which is not a Saturday, a Sunday, or a legal holiday as defined by
2 the Oklahoma Statutes ~~or any other day when the office of the court~~
3 ~~clerk does not remain open for public business until 4:00 p.m.~~ When
4 Except for proceedings and filings governed by **Title 30, 41, 43, 58,**
5 **or 84** of the Oklahoma Statutes, when the period of time prescribed
6 or allowed is less than eleven (11) days, intermediate Saturdays,
7 Sundays, and legal holidays as defined by the Oklahoma Statutes or
8 any other day when the office of the court clerk does not remain
9 open for public business until 4:00 p.m., shall be excluded in the
10 computation. The exclusion of filings and proceedings governed by
11 **Title 30, 41, 43, 58, or 84** of the Oklahoma Statutes is hereby
12 declared to be a clarification of the law as it existed prior to the
13 effective date of this act and shall not be considered or construed
14 to be a change of the law as it existed prior to the effective date
15 of this act. Any action or proceeding arising under **Title 30, 41,**
16 **43, 58, or 84** of the Oklahoma Statutes prior to the effective date
17 of this act for which a determination of the period of time
18 prescribed by this section is in question or has been in question
19 due to the enactment of Section 20, Chapter 293, O.S.L. 1999, shall
20 be governed by the method for computation of time as prescribed by
21 law prior to November 1, 1999.

22 B. ENLARGEMENT. When by this title or by a notice given
23 thereunder by order of court an act is required or allowed to be

1 done at or within a specified time, the court for cause shown may at
2 any time in its discretion:

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

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

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

22 D. ADDITIONAL TIME AFTER SERVICE BY MAIL. Whenever a party has
23 the right or is required to do some act or take some proceedings

1 within a prescribed period after the service of a notice or other
2 paper upon him and the notice or paper is served upon him by mail,
3 three (3) days shall be added to the prescribed period. Provided,
4 however, when a summons and petition are served by mail, a defendant
5 shall serve his answer within twenty (20) days after the date of
6 receipt or if refused, the date of refusal of the summons and
7 petition by the defendant.

8 SECTION 2. It being immediately necessary for the preservation
9 of the public peace, health and safety, an emergency is hereby
10 declared to exist, by reason whereof this act shall take effect and
11 be in full force from and after its passage and approval.

12 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-28-00 - DO
13 PASS, As Amended.