

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

HOUSE BILL HB1381

By: Matlock

AS INTRODUCED

An Act relating to small claims procedure; amending 12 O.S. 1991, Sections 1751, as last amended by Section 1, Chapter 136, O.S.L. 1995 and 1759, as last amended by Section 3, Chapter 339, O.S.L. 1996 (12 O.S. Supp. 2000, Sections 1751 and 1759), which relate to suits, claims, counterclaims and setoffs authorized under small claims procedure; increasing maximum jurisdictional amount for small claims procedure; and providing an effective date.

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

SECTION 1. AMENDATORY 12 O.S. 1991, Section 1751, as last amended by Section 1, Chapter 136, O.S.L. 1995 (12 O.S. Supp. 2000, 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 ~~Four Thousand Five Hundred Dollars (\$4,500.00)~~ Seven Thousand Five Hundred Dollars (\$7,500.00);

2. Actions to replevy personal property the value of which does not exceed ~~Four Thousand Five Hundred Dollars (\$4,500.00)~~ Seven Thousand Five Hundred Dollars (\$7,500.00). If the claims for possession of personal property and to recover money are 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

~~Four Thousand Five Hundred Dollars (\$4,500.00)~~ Seven Thousand Five Hundred Dollars (\$7,500.00); 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 ~~Four Thousand Five Hundred Dollars (\$4,500.00)~~ Seven Thousand Five Hundred Dollars (\$7,500.00).

B. No action may be brought under the small claims procedure by any collection agency, collection agent, or assignee of a claim, except that an action may be brought against an insurer or third-party administrator 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 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, as last amended by Section 3, Chapter 339, O.S.L. 1996 (12 O.S. Supp. 2000, Section 1759), is amended to read as follows:

Section 1759. A. Except as provided by subsection C of this section, if a claim, a counterclaim, or a setoff is filed, prior to the expiration of the time prescribed by Section 1758 of this title, for an amount in excess of ~~Four Thousand Five Hundred Dollars (\$4,500.00)~~ Seven Thousand Five Hundred Dollars (\$7,500.00), 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 ~~Four Thousand Five Hundred Dollars (\$4,500.00)~~ Seven Thousand Five Hundred Dollars (\$7,500.00) may not be enforced for the part that exceeds ~~Four~~

~~Thousand Five Hundred Dollars (\$4,500.00)~~ Seven Thousand Five Hundred Dollars (\$7,500.00). If the action is transferred to another docket of the district court, the person whose claim exceeded ~~Four Thousand Five Hundred Dollars (\$4,500.00)~~ Seven Thousand Five Hundred Dollars (\$7,500.00) 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 the claim shall be dismissed and the remaining claims, if any, shall proceed under the small claims procedure.

B. If the action is transferred to another docket of the district court, the plaintiff shall file a petition that conforms to the standards for pleadings prescribed by the Oklahoma Pleading Code, Section 2001 et seq. of this title, within twenty (20) days from the timely filing of the claim, counterclaim, or setoff. The answer of the defendant shall be due within twenty (20) days after the filing of the petition and the reply of the plaintiff shall be due within ten (10) days after the answer is filed.

C. Except as provided by Section 1757 of this title, if a defendant does not file a counterclaim within the period prescribed by Section 1758 of this title, the action shall not be transferred to another docket of the district court.

SECTION 3. This act shall become effective November 1, 2001.

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