

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 395

By: Smith

AS INTRODUCED

An Act relating to property; amending 12 O.S. 1991, Section 842, as amended by Section 8, Chapter 293, O.S.L. 1999 (12 O.S. Supp. 2000, Section 842), which relates to debtor's appearance and disclosure of assets; prohibiting certain appearance at governmental agency; amending 60 O.S. 1991, Section 754, which relates to place of filing disclaimer; clarifying language; stating docket in which disclaimer shall be filed; and providing an effective date.

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

SECTION 1. AMENDATORY 12 O.S. 1991, Section 842, as amended by Section 8, Chapter 293, O.S.L. 1999 (12 O.S. Supp. 2000, Section 842), is amended to read as follows:

Section 842. A. At any time after a final judgment, order, or decree is filed, on application of the judgment creditor, a judge of the court in which the final judgment, order, or decree was rendered shall order the judgment debtor to appear before the judge, or a referee appointed by the judge, at a time and place specified in the order, to answer concerning the judgment debtor's property. The judge may, by order, enjoin the judgment debtor from alienating, concealing, or encumbering any of the judgment debtor's nonexempt property pending the hearing and further order of the court. Upon the judgment debtor's disclosure of any nonexempt property, proceedings as provided by law may be had for the application of the property to the satisfaction of the judgment.

B. At any time after a final judgment, order, or decree is filed, an attorney for a judgment creditor may subpoena the judgment

debtor pursuant to Section ~~2004~~ 2004.1 of this title to appear at any place in the county, other than a governmental agency, in which the judgment, order, or decree was rendered, or the judgment debtor's county of residence, to answer concerning the judgment debtor's property. The judgment debtor shall not be entitled to an attendance fee or mileage.

C. In addition to sums otherwise due under a final judgment, order, or decree if an order or subpoena is served upon the judgment debtor under this section, the judgment creditor shall be entitled to costs of service and, if represented by an attorney, to an attorney's fee of Seventy-five Dollars (\$75.00); provided, attorney's fees awarded pursuant to this subsection relating to a judgment, order, or decree shall not exceed One Hundred Fifty Dollars (\$150.00) in any twelve-month period.

SECTION 2. AMENDATORY 60 O.S. 1991, Section 754, is amended to read as follows:

Section 754. ~~Such~~ The disclaimer defined in Section 751 of this title shall be effective upon being filed on the miscellaneous docket in the office of the county clerk of any county court of the State of Oklahoma ~~having~~ in which the district court would have jurisdiction and venue of the matter. A copy of the disclaimer shall be delivered or mailed to the trustee of any trust in which the interest disclaimed exists or to ~~such~~ any other person ~~as~~ who has legal title to, or possession of, the property in which the interest disclaimed exists, and no such trustee or person shall be liable for any otherwise proper distribution or other disposition made without actual notice of the disclaimer. If an interest in or relating to real estate is disclaimed, the original of the disclaimer, or a copy of the disclaimer certified as true and complete by the custodian wherein the ~~same~~ disclaimer has been filed, shall also be filed with the county clerk in the county or counties where the real estate is situated and shall constitute

notice to all persons only from and after the time of ~~such~~ the
filing.

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

48-1-381

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