

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1346

By: Sullivan

AS INTRODUCED

An Act relating to the Small Claims Procedure Act; amending 12 O.S. 2001, Section 1759, which relates to claims, counterclaims and setoffs in excess of a certain amount; modifying amount; and declaring an emergency.

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

SECTION 1. AMENDATORY 12 O.S. 2001, 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)~~ Six Thousand Dollars (\$6,000.00), 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)~~ Six Thousand Dollars (\$6,000.00) may not be enforced for the part that exceeds ~~Four Thousand Five Hundred Dollars (\$4,500.00)~~ Six Thousand Dollars (\$6,000.00). 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)~~ Six Thousand Dollars (\$6,000.00) 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 2. 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.

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