

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1620

By: Anderson

4
5
6 AS INTRODUCED

7 An Act relating to small claims procedure; amending
8 12 O.S. 2001, Sections 1751, as last amended by
9 Section 1, Chapter 70, O.S.L. 2004, and 1759, as
10 amended by Section 1, Chapter 122, O.S.L. 2005 (12
11 O.S. Supp. 2007, Sections 1751 and 1759), which
12 relate to small claims procedure; expanding actions
13 eligible for small claims docket; increasing amount
14 of claim for transfer of certain cases; and providing
15 an effective date.

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

17 SECTION 1. AMENDATORY 12 O.S. 2001, Section 1751, as
18 last amended by Section 1, Chapter 70, O.S.L. 2004 (12 O.S. Supp.
19 2007, Section 1751), is amended to read as follows:

20 Section 1751. A. The following suits may be brought under the
21 small claims procedure:

22 1. Actions for the recovery of money based on contract or tort,
23 including subrogation claims, but excluding libel or slander, in
24 which the amount sought to be recovered, exclusive of ~~attorneys~~
attorney fees and other court costs, does not exceed ~~Six Thousand~~

1 ~~Dollars (\$6,000.00)~~ Nine Thousand Nine Hundred Ninety-nine Dollars
2 and Ninety-nine cents (\$9,999.99);

3 2. Actions to replevy personal property the value of which does
4 not exceed ~~Six Thousand Dollars (\$6,000.00)~~ Nine Thousand Nine
5 Hundred Ninety-nine Dollars and Ninety-nine cents (\$9,999.99). If
6 the claims for possession of personal property and to recover money
7 are pled in the alternative, the joinder of claims is permissible if
8 neither the value of the property nor the total amount of money
9 sought to be recovered, exclusive of ~~attorneys~~ attorney fees and
10 other costs, exceeds ~~Six Thousand Dollars (\$6,000.00)~~ Nine Thousand
11 Nine Hundred Ninety-nine Dollars and Ninety-nine cents (\$9,999.99);
12 and

13 3. Actions in the nature of interpleader, as provided for in
14 Section 2022 of this title, in which the value of the money which is
15 the subject of such action does not exceed ~~Six Thousand Dollars~~
16 ~~(\$6,000.00)~~ Nine Thousand Nine Hundred Ninety-nine Dollars and
17 Ninety-nine cents (\$9,999.99).

18 B. No action may be brought under the small claims procedure by
19 any collection agency, collection agent, or assignee of a claim,
20 except that an action may be brought against an insurer or third-
21 party administrator by a health care provider as that term is
22 defined in Section 6552 of Title 36 of the Oklahoma Statutes, who is
23 an assignee of benefits available under an accident and health
24 insurance policy, trust, plan, or contract.

1 C. In those cases which are uncontested, the amount of
2 ~~attorneys~~ attorney fees allowed shall not exceed ten percent (10%)
3 of the judgment.

4 D. No action may be brought under the small claims procedure
5 for any alleged claim against any city, county or state agency, or
6 employee of a city, county or state agency, if the claim alleges
7 matters arising from incarceration, probation, parole or community
8 supervision.

9 E. No action by a plaintiff who is currently incarcerated in
10 any jail or prison in the state may be brought against any person or
11 entity under the small claims procedure.

12 SECTION 2. AMENDATORY 12 O.S. 2001, Section 1759, as
13 amended by Section 1, Chapter 122, O.S.L. 2005 (12 O.S. Supp. 2007,
14 Section 1759), is amended to read as follows:

15 Section 1759. A. Except as provided by subsection C of this
16 section, if a claim, a counterclaim, or a setoff is filed, prior to
17 the expiration of the time prescribed by Section 1758 of this title,
18 for an amount in excess of ~~Six Thousand Dollars (\$6,000.00)~~ Nine
19 Thousand Nine Hundred Ninety-nine Dollars and Ninety-nine cents
20 (\$9,999.99), the action shall be transferred to another docket of
21 the district court unless both parties agree in writing and file
22 ~~said~~ the agreement with the papers in the action that ~~said~~ the
23 claim, counterclaim, or setoff shall be tried under the small claims
24 procedure. If such an agreement has not been filed, a judgment in

1 excess of ~~Six Thousand Dollars (\$6,000.00)~~ Nine Thousand Nine
2 Hundred Ninety-nine Dollars and Ninety-nine cents (\$9,999.99) may
3 not be enforced for the part that exceeds ~~Six Thousand Dollars~~
4 ~~(\$6,000.00)~~ Nine Thousand Nine Hundred Ninety-nine Dollars and
5 Ninety-nine cents (\$9,999.99). If the action is transferred to
6 another docket of the district court, the person whose claim
7 exceeded ~~Six Thousand Dollars (\$6,000.00)~~ Nine Thousand Nine Hundred
8 Ninety-nine Dollars and Ninety-nine cents (\$9,999.99) shall deposit
9 with the clerk the court costs that are charged in other cases, less
10 any sums that have been already paid to the clerk, or the claim
11 shall be dismissed and the remaining claims, if any, shall proceed
12 under the small claims procedure.

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

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

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SECTION 3. This act shall become effective November 1, 2008.

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