

THE HOUSE OF REPRESENTATIVES
Wednesday, February 24, 2010

Committee Substitute for
House Bill No. 2946

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2946 - By: JORDAN of the House.

An Act relating to civil procedure; providing procedure and requirements for commencement of certain civil actions; providing for dismissal of action if requirements are not met; providing for dismissal of action in certain circumstances; providing for award of costs and attorney fees in certain circumstances; providing for sanctions; authorizing extension of time to complete corrections; providing for codification; and providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 2003.2 of Title 12, unless there is created a duplication in numbering,
3 reads as follows:
4 COMMENCEMENT OF ACTION BASED ON CONSTRUCTION-RELATED
5 ACCESSIBILITY CLAIM.
6 A. Prior to filing a civil action based on a construction-related accessibility claim
7 that a facility does not conform with applicable law, codes and standards for facilities for
8 the physically disabled, the plaintiff shall notify the defendant in writing of the plaintiff's
9 assertion that the facility does not comply with applicable law, codes and standards
10 regulating construction of facilities to accommodate physically disabled individuals and

1 the specific violations that the plaintiff asserts. The notice shall be sent by certified mail
2 with return receipt requested at least one hundred twenty (120) days prior to the filing of
3 a petition.

4 B. In any civil action based on a construction-related accessibility claim that a
5 facility does not conform with applicable law, codes and standards for facilities for the
6 physically disabled, the plaintiff shall attach to the petition:

- 7 1. A copy of the notice required by subsection A of this section; and
- 8 2. A copy of the certified mail return receipt signed by the defendant or person
9 authorized to receive service of process for the defendant.

10 C. If a civil action based on a construction-related accessibility claim that a facility
11 does not conform with applicable law, codes and standards for facilities for the physically
12 disabled is filed without the documentation required by subsection B of this section or if
13 the petition is filed less than one hundred twenty (120) days after the date the notice
14 required by subsection A of this section is sent, the court shall, upon motion of the
15 defendant, dismiss the action without prejudice to its refiling.

16 D. If the defendant corrects the alleged defect prior to the filing of the petition and
17 the plaintiff files the petition, the court shall dismiss the action and award court costs
18 and reasonable attorney fees to the defendant. In addition, the court shall impose
19 sanctions if the action is determined to be frivolous pursuant to Section 2011 of Title 12
20 of the Oklahoma Statutes.

21 E. If the defendant has made a reasonable effort to correct the defect but has not
22 completed the correction within one hundred twenty (120) days of notification as directed

1 in subsection A of this section or prior to the filing of the petition, the court may, upon
2 application of the defendant for good cause shown, grant the defendant a reasonable
3 extension of time, based on the nature of construction needed to correct the deficiency. If
4 the correction is completed within that period of time the court shall dismiss the action.

5 SECTION 2. This act shall become effective November 1, 2010.

6 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02-23-10 - DO PASS,
7 As Amended.