

ESB 815

THE HOUSE OF REPRESENTATIVES  
Wednesday, April 8, 2009

ENGROSSED  
**Senate Bill No. 815**  
**As Amended**

ENGROSSED SENATE BILL NO. 815 - By: BURRAGE AND IVESTER of the Senate  
and SHERRER of the House.

( civil procedure - small claims docket -  
effective date )

1 SECTION 1. AMENDATORY 12 O.S. 2001, Section 1751, as last amended by  
2 Section 1, Chapter 70, O.S.L. 2004 (12 O.S. Supp. 2008, Section 1751), is amended to  
3 read as follows:

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

6 1. Actions for the recovery of money based on contract or tort, including  
7 subrogation claims, but excluding libel or slander, in which the amount sought to be  
8 recovered, exclusive of attorneys fees and other court costs, does not exceed ~~Six Thousand~~  
9 ~~Dollars (\$6,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00);

10 2. Actions to replevy personal property the value of which does not exceed ~~Six~~  
11 ~~Thousand Dollars (\$6,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00). If the claims  
12 for possession of personal property and to recover money are pled in the alternative, the

1 joinder of claims is permissible if neither the value of the property nor the total amount  
2 of money sought to be recovered, exclusive of attorneys fees and other costs, exceeds ~~Six~~  
3 ~~Thousand Dollars (\$6,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00); and

4 3. Actions in the nature of interpleader, as provided for in Section 2022 of this title,  
5 in which the value of the money which is the subject of such action does not exceed ~~Six~~  
6 ~~Thousand Dollars (\$6,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00).

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

12 C. In those cases which are uncontested, the amount of attorneys fees allowed shall  
13 not exceed ten percent (10%) of the judgment.

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

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

20 F. A small claims affidavit shall include a statement acknowledging that the  
21 plaintiff is disclaiming a right to a trial by jury on the merits of the case.

1 SECTION 2. AMENDATORY 12 O.S. 2001, Section 1759, as amended by  
2 Section 1, Chapter 122, O.S.L. 2005 (12 O.S. Supp. 2008, Section 1759), is amended to  
3 read as follows:

4 Section 1759. A. Except as provided by subsection C of this section, if a claim, a  
5 counterclaim, or a setoff is filed, prior to the expiration of the time prescribed by Section  
6 1758 of this title, for an amount in excess of ~~Six Thousand Dollars (\$6,000.00)~~ Twenty-  
7 five Thousand Dollars (\$25,000.00), the action shall be transferred to another docket of  
8 the district court unless both parties agree in writing and file said agreement with the  
9 papers in the action that said claim, counterclaim, or setoff shall be tried under the small  
10 claims procedure. If such an agreement has not been filed, a judgment in excess of ~~Six~~  
11 ~~Thousand Dollars (\$6,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00) may not be  
12 enforced for the part that exceeds ~~Six Thousand Dollars (\$6,000.00)~~ Twenty-five  
13 Thousand Dollars (\$25,000.00). If the action is transferred to another docket of the  
14 district court, the person whose claim exceeded ~~Six Thousand Dollars (\$6,000.00)~~  
15 Twenty-five Thousand Dollars (\$25,000.00) shall deposit with the clerk the court costs  
16 that are charged in other cases, less any sums that have been already paid to the clerk,  
17 or the claim shall be dismissed and the remaining claims, if any, shall proceed under the  
18 small claims procedure.

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

1 be due within twenty (20) days after the filing of the petition and the reply of the plaintiff  
2 shall be due within ten (10) days after the answer is filed.

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

6 SECTION 3. This act shall become effective November 1, 2009.

7 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 04-07-09 - DO PASS,  
8 As Amended.