

ENROLLED SENATE
BILL NO. 1196

By: Burrage, Allen and Ivester
of the Senate

and

Sherrer and McCullough of
the House

An Act relating to small claims procedure; amending 12 O.S. 2011, Sections 1751 and 1759, which relate to the Small Claims Procedure Act; expanding actions eligible for small claims docket; requiring certain disclaimer; increasing amount of claim for transfer of certain cases; updating language; and providing an effective date.

SUBJECT: Small claims procedure

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

SECTION 1. AMENDATORY 12 O.S. 2011, Section 1751, is amended to read as follows:

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

1. Actions for the recovery of money based on contract or tort, including subrogation claims, but excluding libel or slander, in which the amount sought to be recovered, exclusive of ~~attorneys~~ attorney fees and other court costs, does not exceed ~~Six Thousand Dollars (\$6,000.00)~~ Seven Thousand Five Hundred Dollars (\$7,500.00);

2. Actions to replevy personal property the value of which does not exceed ~~Six Thousand Dollars (\$6,000.00)~~ Seven Thousand Five Hundred Dollars (\$7,500.00). If the claims for possession of personal property and to recover money are pled in the alternative, the joinder of claims is permissible if neither the value of the property nor the total amount of money sought to be recovered, exclusive of ~~attorneys~~ attorney fees and other costs, exceeds ~~Six Thousand Dollars (\$6,000.00)~~ Seven Thousand Five Hundred Dollars (\$7,500.00); and

3. Actions in the nature of interpleader, as provided for in Section 2022 of this title, in which the value of the money which is the subject of such action does not exceed ~~Six Thousand Dollars (\$6,000.00)~~ Seven Thousand Five Hundred Dollars (\$7,500.00).

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

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

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

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

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

SECTION 2. AMENDATORY 12 O.S. 2011, 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 ~~Six Thousand Dollars (\$6,000.00)~~ Seven Thousand Five Hundred Dollars (\$7,500.00), the action shall be transferred to another docket of the district court unless both parties agree in writing and file ~~said the~~ the agreement with the papers in the action that ~~said the~~ the 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 ~~Six Thousand Dollars (\$6,000.00)~~ Seven Thousand Five Hundred Dollars (\$7,500.00) may not be enforced for the part that exceeds ~~Six Thousand Dollars (\$6,000.00)~~ Seven Thousand Five Hundred Dollars (\$7,500.00). If the action is transferred to another docket of the district court, the person whose claim exceeded ~~Six Thousand Dollars (\$6,000.00)~~ Seven Thousand Five Hundred Dollars (\$7,500.00) 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 3. This act shall become effective November 1, 2012.

Passed the Senate the 15th day of May, 2012.

Presiding Officer of the Senate

Passed the House of Representatives the 9th day of April, 2012.

Presiding Officer of the House
of Representatives