

1 **SENATE FLOOR VERSION**

2 February 10, 2015

3 SENATE BILL NO. 617

By: Sparks

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5  
6 An Act relating to small claims procedure; amending  
7 12 O.S. 2011, Sections 1751, as amended by Section 1,  
8 Chapter 282, O.S.L. 2012, and 1759, as amended by  
9 Section 2, Chapter 282, O.S.L. 2012 (12 O.S. Supp.  
10 2014, Sections 1751 and 1759), which relate to  
jurisdiction; expanding actions eligible for small  
claims procedure; authorizing award of certain fees;  
increasing amount of claim for transfer of certain  
cases; and providing an effective date.

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

14 SECTION 1. AMENDATORY 12 O.S. 2011, Section 1751, as  
15 amended by Section 1, Chapter 282, O.S.L. 2012 (12 O.S. Supp. 2014,  
16 Section 1751), is amended to read as follows:

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

19 1. Actions for the recovery of money based on contract or tort,  
20 including subrogation claims, but excluding libel or slander, in  
21 which the amount sought to be recovered, exclusive of attorney fees  
22 and other court costs, does not exceed ~~Seven Thousand Five Hundred~~  
23 ~~Dollars (\$7,500.00)~~ Ten Thousand Dollars (\$10,000.00);

1           2. Actions to replevy personal property the value of which does  
2 not exceed ~~Seven Thousand Five Hundred Dollars (\$7,500.00)~~ Ten  
3 Thousand Dollars (\$10,000.00). If the claims for possession of  
4 personal property and to recover money are pled in the alternative,  
5 the joinder of claims is permissible if neither the value of the  
6 property nor the total amount of money sought to be recovered,  
7 exclusive of attorney fees and other costs, exceeds ~~Seven Thousand~~  
8 ~~Five Hundred Dollars (\$7,500.00)~~ Ten Thousand Dollars (\$10,000.00);  
9 and

10           3. Actions in the nature of interpleader, as provided for in  
11 Section 2022 of this title, in which the value of the money which is  
12 the subject of such action does not exceed ~~Seven Thousand Five~~  
13 ~~Hundred Dollars (\$7,500.00)~~ Ten Thousand Dollars (\$10,000.00).

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

21           C. In those cases which are uncontested, the amount of attorney  
22 fees allowed shall not exceed ten percent (10%) of the judgment.  
23 Additionally, upon application to the court supported by sufficient  
24

1 documentation, the court may award attorney fees not to exceed  
2 twenty percent (20%) of the judgment.

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

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

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

14 SECTION 2. AMENDATORY 12 O.S. 2011, Section 1759, as  
15 amended by Section 2, Chapter 282, O.S.L. 2012 (12 O.S. Supp. 2014,  
16 Section 1759), is amended to read as follows:

17 Section 1759. A. Except as provided by subsection C of this  
18 section, if a claim, a counterclaim, or a setoff is filed, prior to  
19 the expiration of the time prescribed by Section 1758 of this title,  
20 for an amount in excess of ~~Seven Thousand Five Hundred Dollars~~  
21 ~~(\$7,500.00)~~ Ten Thousand Dollars (\$10,000.00), the action shall be  
22 transferred to another docket of the district court unless both  
23 parties agree in writing and file the agreement with the papers in  
24 the action that the claim, counterclaim, or setoff shall be tried

1 under the small claims procedure. If such an agreement has not been  
2 filed, a judgment in excess of ~~Seven Thousand Five Hundred Dollars~~  
3 ~~(\$7,500.00)~~ Ten Thousand Dollars (\$10,000.00) may not be enforced  
4 for the part that exceeds ~~Seven Thousand Five Hundred Dollars~~  
5 ~~(\$7,500.00)~~ Ten Thousand Dollars (\$10,000.00). If the action is  
6 transferred to another docket of the district court, the person  
7 whose claim exceeded ~~Seven Thousand Five Hundred Dollars (\$7,500.00)~~  
8 Ten Thousand Dollars (\$10,000.00) shall deposit with the clerk the  
9 court costs that are charged in other cases, less any sums that have  
10 been already paid to the clerk, or the claim shall be dismissed and  
11 the remaining claims, if any, shall proceed under the small claims  
12 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.

SECTION 3. This act shall become effective November 1, 2015.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
February 10, 2015 - DO PASS

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