

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

HOUSE BILL 2392

By: Sherrer

AS INTRODUCED

An Act relating to civil procedure; amending 12 O.S. 2011, Sections 1751 and 1759, as amended by Sections 1 and 2, Chapter 282, O.S.L. 2012 (12 O.S. Supp. 2015, Sections 1751 and 1759), which relate to small claims procedure; increasing recovery amount limit of actions eligible for small claims procedure; increasing amount of claim limit for transfer of certain actions; and providing an effective date.

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

SECTION 1. AMENDATORY 12 O.S. 2011, Section 1751, as amended by Section 1, Chapter 282, O.S.L. 2012 (12 O.S. Supp. 2015, 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 attorney fees and other court costs, does not exceed ~~Seven Thousand Five Hundred 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 D. No action may be brought under the small claims procedure
24 for any alleged claim against any city, county or state agency, or

1 employee of a city, county or state agency, if the claim alleges
2 matters arising from incarceration, probation, parole or community
3 supervision.

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

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

10 SECTION 2. AMENDATORY 12 O.S. 2011, Section 1759, as
11 amended by Section 2, Chapter 282, O.S.L. 2012 (12 O.S. Supp. 2015,
12 Section 1759), is amended to read as follows:

13 Section 1759. A. Except as provided by subsection C of this
14 section, if a claim, a counterclaim, or a setoff is filed, prior to
15 the expiration of the time prescribed by Section 1758 of this title,
16 for an amount in excess of ~~Seven Thousand Five Hundred Dollars~~
17 ~~(\$7,500.00)~~ Ten Thousand Dollars (\$10,000.00), the action shall be
18 transferred to another docket of the district court unless both
19 parties agree in writing and file the agreement with the papers in
20 the action that the claim, counterclaim, or setoff shall be tried
21 under the small claims procedure. If such an agreement has not been
22 filed, a judgment in excess of ~~Seven Thousand Five Hundred Dollars~~
23 ~~(\$7,500.00)~~ Ten Thousand Dollars (\$10,000.00) may not be enforced
24 for the part that exceeds ~~Seven Thousand Five Hundred Dollars~~

1 ~~(\$7,500.00)~~ Ten Thousand Dollars (\$10,000.00). If the action is
2 transferred to another docket of the district court, the person
3 whose claim exceeded ~~Seven Thousand Five Hundred Dollars (\$7,500.00)~~
4 Ten Thousand Dollars (\$10,000.00) shall deposit with the clerk the
5 court costs that are charged in other cases, less any sums that have
6 been already paid to the clerk, or the claim shall be dismissed and
7 the remaining claims, if any, shall proceed under the small claims
8 procedure.

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

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

21 SECTION 3. This act shall become effective November 1, 2016.
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