

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION BY SENATE

FLOOR AMENDMENT

No. _____

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 16, by striking the title, enacting clause and entire body of the bill and substituting the attached floor substitute.

Submitted by:

Senator Bingman

Bingman-CD-FS-Req#30X
9/5/2013 1:07 PM

STATE OF OKLAHOMA

1st Extraordinary Session of the 54th Legislature (2013)

FLOOR SUBSTITUTE
FOR

SENATE BILL NO. 16

By: Bingman, Sykes, Jolley and
Shortey of the Senate

and

Shannon and Stiles of the
House

FLOOR SUBSTITUTE

An Act relating to class action procedure; repealing Section 9, Chapter 228, O.S.L. 2009, which relates to appeals from certain orders; amending 12 O.S. 2011, Section 993, which relates to appeals from certain orders; modifying grounds for interlocutory orders; amending 12 O.S. 2011, Section 993, as amended by Section 2 of this act, which relates to appeals from certain orders; modifying grounds for interlocutory orders; repealing Section 1, Chapter 368, O.S.L. 2004 (5 O.S. Supp. 2008, Section 7.1), which relates to attorney fees in class actions; and declaring an emergency.

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

SECTION 1. REPEALER Section 9, Chapter 228, O.S.L. 2009,
is hereby repealed.

SECTION 2. AMENDATORY 12 O.S. 2011, Section 993, is
amended to read as follows:

Section 993. A. When an order:

1. Discharges, vacates, or modifies or refuses to discharge,
vacate, or modify an attachment;

1 2. Denies a temporary or permanent injunction, grants a
2 temporary or permanent injunction except where granted at an ex
3 parte hearing, or discharges, vacates, or modifies or refuses to
4 discharge, vacate, or modify a temporary or permanent injunction;

5 3. Discharges, vacates, or modifies or refuses to discharge,
6 vacate, or modify a provisional remedy which affects the substantial
7 rights of a party;

8 4. Appoints a receiver except where the receiver was appointed
9 at an ex parte hearing, refuses to appoint a receiver, or vacates or
10 refuses to vacate the appointment of a receiver;

11 5. Directs the payment of money pendente lite except where
12 granted at an ex parte hearing, refuses to direct the payment of
13 money pendente lite, or vacates or refuses to vacate an order
14 directing the payment of money pendente lite;

15 6. Certifies or refuses to certify an action to be maintained
16 as a class action; or

17 7. ~~Denies a motion in a class action asserting lack of~~
18 ~~jurisdiction because an agency of this state has exclusive or~~
19 ~~primary jurisdiction of the action or a part of the action, or~~
20 ~~asserting that a party has failed to exhaust administrative~~
21 ~~remedies, but only if the class is subsequently certified and only~~
22 ~~as part of the appeal of the order certifying the class action; or~~

23 8. Grants a new trial or opens or vacates a judgment or order,
24 the party aggrieved thereby may appeal the order to the Supreme

1 Court without awaiting the final determination in said cause, by
2 filing the petition in error and the record on appeal with the
3 Supreme Court within thirty (30) days after the order prepared in
4 conformance with Section 696.3 of this title, is filed with the
5 court clerk. If the appellant did not prepare the order, and
6 Section 696.2 of this title required a copy of the order to be
7 mailed to the appellant, and the court records do not reflect the
8 mailing of a copy of the order to the appellant within three (3)
9 days, exclusive of weekends and holidays, after the filing of the
10 order, the petition in error may be filed within thirty (30) days
11 after the earliest date on which the court records show that a copy
12 of the order was mailed to the appellant. The Supreme Court may
13 extend the time for filing the record upon good cause shown.

14 B. If the order discharges or modifies an attachment or
15 temporary injunction and it becomes operative, the undertaking given
16 upon the allowance of an attachment or temporary injunction shall
17 stay the enforcement of said order and remain in full force until
18 final order of discharge shall take effect.

19 C. ~~If~~ Where a receiver shall be or has been appointed, upon the
20 appellant filing an appeal bond, with sufficient sureties, in such
21 sum as may have been required of the receiver by the court or a
22 judge thereof, conditioned for the due prosecution of the appeal and
23 the payment of all costs or damages that may accrue to the state or
24 any officer or person by reason thereof, the authority of the

1 receiver shall be suspended until the final determination of the
2 appeal, and if the receiver has taken possession of any property,
3 real or personal, it shall be returned and surrendered to the
4 appellant upon the filing and approval of the bonds.

5 SECTION 3. AMENDATORY 12 O.S. 2011, Section 993, as
6 amended by Section 2 of this act, is amended to read as follows:

7 Section 993. A. When an order:

8 1. Discharges, vacates, or modifies or refuses to discharge,
9 vacate, or modify an attachment;

10 2. Denies a temporary or permanent injunction, grants a
11 temporary or permanent injunction except where granted at an ex
12 parte hearing, or discharges, vacates, or modifies or refuses to
13 discharge, vacate, or modify a temporary or permanent injunction;

14 3. Discharges, vacates, or modifies or refuses to discharge,
15 vacate, or modify a provisional remedy which affects the substantial
16 rights of a party;

17 4. Appoints a receiver except where the receiver was appointed
18 at an ex parte hearing, refuses to appoint a receiver, or vacates or
19 refuses to vacate the appointment of a receiver;

20 5. Directs the payment of money pendente lite except where
21 granted at an ex parte hearing, refuses to direct the payment of
22 money pendente lite, or vacates or refuses to vacate an order
23 directing the payment of money pendente lite;

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1 6. Certifies or refuses to certify an action to be maintained
2 as a class action; ~~or~~

3 7. Denies a motion in a class action asserting lack of
4 jurisdiction because an agency of this state has exclusive or
5 primary jurisdiction of the action or a part of the action, or
6 asserting that a party has failed to exhaust administrative
7 remedies, but only if the class is subsequently certified and only
8 as part of the appeal of the order certifying the class action; or

9 8. Grants a new trial or opens or vacates a judgment or order,
10 the party aggrieved thereby may appeal the order to the Supreme
11 Court without awaiting the final determination in said cause, by
12 filing the petition in error and the record on appeal with the
13 Supreme Court within thirty (30) days after the order prepared in
14 conformance with Section 696.3 of this title, is filed with the
15 court clerk. If the appellant did not prepare the order, and
16 Section 696.2 of this title required a copy of the order to be
17 mailed to the appellant, and the court records do not reflect the
18 mailing of a copy of the order to the appellant within three (3)
19 days, exclusive of weekends and holidays, after the filing of the
20 order, the petition in error may be filed within thirty (30) days
21 after the earliest date on which the court records show that a copy
22 of the order was mailed to the appellant. The Supreme Court may
23 extend the time for filing the record upon good cause shown.

1 B. If the order discharges or modifies an attachment or
2 temporary injunction and it becomes operative, the undertaking given
3 upon the allowance of an attachment or temporary injunction shall
4 stay the enforcement of said order and remain in full force until
5 final order of discharge shall take effect.

6 C. ~~Where~~ If a receiver shall be or has been appointed, upon the
7 appellant filing an appeal bond, with sufficient sureties, in such
8 sum as may have been required of the receiver by the court or a
9 judge thereof, conditioned for the due prosecution of the appeal and
10 the payment of all costs or damages that may accrue to the state or
11 any officer or person by reason thereof, the authority of the
12 receiver shall be suspended until the final determination of the
13 appeal, and if the receiver has taken possession of any property,
14 real or personal, it shall be returned and surrendered to the
15 appellant upon the filing and approval of the bonds.

16 SECTION 4. REPEALER Section 1, Chapter 368, O.S.L. 2004
17 (5 O.S. Supp. 2008, Section 7.1), is hereby repealed.

18 SECTION 5. It being immediately necessary for the preservation
19 of the public peace, health and safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.

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