

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                   STATE OF OKLAHOMA

3                   1st Session of the 54th Legislature (2013)

4   (1ST EXTRAORDINARY SESSION)

5   ENGROSSED SENATE

6   BILL NO. 16X

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

and

Shannon and Stiles of the  
House

11           An Act relating to class action procedure; repealing  
12           Section 9, Chapter 228, O.S.L. 2009, which relates to  
13           appeals from certain orders; amending 12 O.S. 2011,  
14           Section 993, which relates to appeals from certain  
15           orders; modifying grounds for interlocutory orders;  
16           amending 12 O.S. 2011, Section 993, as amended by  
17           Section 2 of this act, which relates to appeals from  
18           certain orders; modifying grounds for interlocutory  
19           orders; repealing Section 1, Chapter 368, O.S.L. 2004  
20           (5 O.S. Supp. 2008, Section 7.1), which relates to  
21           attorney fees in class actions; and declaring an  
22           emergency.

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

24           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is hereby repealed.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        1. Discharges, vacates, or modifies or refuses to discharge,  
2 vacate, or modify an attachment;

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

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

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

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

17       6. Certifies or refuses to certify an action to be maintained  
18 as a class action; or

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

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

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

21       C. ~~If~~ Where a receiver shall be or has been appointed, upon the  
22 appellant filing an appeal bond, with sufficient sureties, in such  
23 sum as may have been required of the receiver by the court or a  
24 judge thereof, conditioned for the due prosecution of the appeal and

1 the payment of all costs or damages that may accrue to the state or  
2 any officer or person by reason thereof, the authority of the  
3 receiver shall be suspended until the final determination of the  
4 appeal, and if the receiver has taken possession of any property,  
5 real or personal, it shall be returned and surrendered to the  
6 appellant upon the filing and approval of the bonds.

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

9 Section 993. A. When an order:

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

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

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

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

22 5. Directs the payment of money pendente lite except where  
23 granted at an ex parte hearing, refuses to direct the payment of  
24

1 money pendente lite, or vacates or refuses to vacate an order  
2 directing the payment of money pendente lite;

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

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

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

1 of the order was mailed to the appellant. The Supreme Court may  
2 extend the time for filing the record upon good cause shown.

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

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

18 SECTION 4. REPEALER Section 1, Chapter 368, O.S.L. 2004  
19 (5 O.S. Supp. 2008, Section 7.1), is hereby repealed.

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

24 DIRECT TO CALENDAR.