

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 HOUSE BILL 2808

By: Hardin (David) of the House

5 and

6 **Bergstrom** of the Senate

7
8
9 AS INTRODUCED

10 An Act relating to civil procedure; amending 12 O.S.
11 2011, Sections 1148.10 and 1148.10A, which relate to
12 forcible entry and detainer; modifying writ of
13 execution form; specifying physical possession shall
14 be restored to plaintiff under certain circumstances;
15 and providing an effective date.

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

17 SECTION 1. AMENDATORY 12 O.S. 2011, Section 1148.10, is
18 amended to read as follows:

19 Section 1148.10 If judgment be for plaintiff, the court shall,
20 at the request of the plaintiff, his or her agent or attorney, issue
21 a writ of execution thereon, which shall be in substantially the
22 following form:

23 The State of Oklahoma, _____ County.

24 The State of Oklahoma to the Sheriff of _____ County:

1 Whereas, in a certain action for the forcible entry and
2 detention (or for the forcible detention as the case may be) of the
3 following described premises, to wit: _____ lately tried
4 before me, wherein _____ was plaintiff, and _____ was
5 defendant, judgment was rendered on the ____ day of _____, ~~1920~~,
6 that the plaintiff have restitution of said premises; and also that
7 he recover rent, attorney fees and costs in the sum of _____; you,
8 therefore, are hereby commanded to cause the defendant to be
9 forthwith removed from said premises and the said plaintiff to have
10 ~~restitution~~ physical possession of the same; ~~also that you levy on~~
11 ~~the goods and chattels of the said defendant, and make the costs~~
12 ~~aforsaid,~~ and all accruing costs, and of this writ, make legal
13 service and due return.

14 Witness my hand this ____ day of _____, ~~1920~~.

15 _____
16 A.B., Judge

17 A motion for a new trial may be filed only within three (3) days
18 of judgment but shall not operate to stay execution.

19 SECTION 2. AMENDATORY 12 O.S. 2011, Section 1148.10A, is
20 amended to read as follows:

21 Section 1148.10A A. The plaintiff or agent of the plaintiff or
22 officer shall immediately notify the defendant in person or by
23 posting of said notice that the plaintiff or agent of the plaintiff
24 or officer shall return in forty-eight (48) hours to restore the

1 plaintiff possession of the premises by executing the writ
2 prescribed in Section 1148.10 of this title and shall make levy to
3 collect the amount of the judgment and all accruing costs.

4 B. The original writ of execution issued as provided by Section
5 1148.10 of this title shall be filed in the action in the manner
6 provided for judgments in civil cases.

7 C. The plaintiff or agent of the plaintiff may execute the writ
8 upon the defendant by personally serving a certified copy of the
9 writ upon the defendant or upon a person authorized to receive
10 service of process as provided by Section 2004 of this title. If
11 the plaintiff or agent of the plaintiff is unable to personally
12 serve the defendant or a person authorized to receive service of
13 process as provided by Section 2004 of this title, the plaintiff or
14 agent of the plaintiff may post a notice in a conspicuous place at
15 the premises address that the plaintiff or agent of the plaintiff
16 shall return at a specified date and time, which shall be not less
17 than forty-eight (48) hours from the time of posting, to restore the
18 plaintiff to physical possession of the premises by executing the
19 writ prescribed in Section 1148.10 of this title.

20 D. Any person who wrongfully refuses to surrender physical
21 possession of the premises described in the writ of execution upon
22 service of the writ by the plaintiff or the agent of the plaintiff
23 shall, upon conviction, be deemed guilty of a trespass and may be
24 punished by a fine in an amount not to exceed Five Hundred Dollars

1 (\$500.00) or by confinement in the county jail for a period not to
2 exceed thirty (30) days or by both such fine and imprisonment.

3 E. The plaintiff or the agent of the plaintiff may summon
4 either the sheriff of the county or the law enforcement agency of
5 the city or town in which the premises are located for assistance in
6 executing the writ.

7 F. The plaintiff's, the agent of the plaintiff's, or the
8 officer's return shall be as upon other executions. Within two (2)
9 days of the date of the judgment, the defendant may post a
10 supersedeas bond conditioned as provided by law. This time limit
11 may be enlarged by a trial judge's order to not more than seven (7)
12 days after the date of judgment. The posting of a supersedeas bond
13 shall not be construed to relieve the defendant of his or her duty
14 to pay current rent as it becomes due while the appeal is pending.
15 The rent shall be paid into the court clerk's office together with
16 poundage. If there be controversy as to the amount of rent, the
17 judge shall determine by order how much shall be paid in what time
18 intervals. Withdrawal by the plaintiff of rent deposited in the
19 court clerk's office pending appeal shall not operate to estop him
20 or her from urging on appeal his or her right to the possession of
21 the premises. Failure to pay current rentals while the appeal is
22 pending shall be considered as abandonment of the appeal.

SECTION 3. This act shall become effective November 1, 2020.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/13/2020 - DO
PASS, As Coauthored.