

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

HOUSE BILL 2808

By: Hardin (David)

AS INTRODUCED

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

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

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

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

The State of Oklahoma, _____ County.

The State of Oklahoma to the Sheriff of _____ County:

Whereas, in a certain action for the forcible entry and detention (or for the forcible detention as the case may be) of the following described premises, to wit: _____ lately tried

1 before me, wherein _____ was plaintiff, and _____ was
2 defendant, judgment was rendered on the ____ day of _____, 1920,
3 that the plaintiff have restitution of said premises; and also that
4 he recover rent, attorney fees and costs in the sum of _____; you,
5 therefore, are hereby commanded to cause the defendant to be
6 forthwith removed from said premises and the said plaintiff to have
7 ~~restitution~~ physical possession of the same; ~~also that you levy on~~
8 ~~the goods and chattels of the said defendant, and make the costs~~
9 ~~aforesaid,~~ and all accruing costs, and of this writ, make legal
10 service and due return.

11 Witness my hand this ____ day of _____, 1920 .

12 _____
13 A.B., Judge

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

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

18 Section 1148.10A A. The plaintiff or agent of the plaintiff or
19 officer shall immediately notify the defendant in person or by
20 posting of said notice that the plaintiff or agent of the plaintiff
21 or officer shall return in forty-eight (48) hours to restore the
22 plaintiff possession of the premises by executing the writ
23 prescribed in Section 1148.10 of this title and shall make levy to
24 collect the amount of the judgment and all accruing costs.

1 B. The original writ of execution issued as provided by Section
2 1148.10 of this title shall be filed in the action in the manner
3 provided for judgments in civil cases.

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

17 D. Any person who wrongfully refuses to surrender physical
18 possession of the premises described in the writ of execution upon
19 service of the writ by the plaintiff or the agent of the plaintiff
20 shall, upon conviction, be deemed guilty of a trespass and may be
21 punished by a fine in an amount not to exceed Five Hundred Dollars
22 (\$500.00) or by confinement in the county jail for a period not to
23 exceed thirty (30) days or by both such fine and imprisonment.

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

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

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