

An Act

ENROLLED HOUSE
BILL NO. 1092

By: Osburn of the House

and

Pugh of the Senate

An Act relating to small claims procedure; amending 12 O.S. 2011, Section 1751, as last amended by Section 1, Chapter 389, O.S.L. 2017 (12 O.S. Supp. 2018, Section 1751), which relates to suits authorized under small claims procedure; clarifying limits for awarding attorney fees in uncontested cases; construing provision to exclude award limits for contested cases; construing provision to not prohibit awarding attorney fees; and providing an effective date.

SUBJECT: Small claims procedure

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

SECTION 1. AMENDATORY 12 O.S. 2011, Section 1751, as last amended by Section 1, Chapter 389, O.S.L. 2017 (12 O.S. Supp. 2018, 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 Ten Thousand Dollars (\$10,000.00);

2. Actions to replevy personal property the value of which does not exceed Ten Thousand Dollars (\$10,000.00). If the claims for possession of personal property and to recover money are pled in the alternative, the joinder of claims is permissible if neither the

value of the property nor the total amount of money sought to be recovered, exclusive of attorney fees and other costs, exceeds Ten Thousand Dollars (\$10,000.00); and

3. Actions in the nature of interpleader, as provided for in Section 2022 of this title, in which the value of the money which is the subject of such action does not exceed Ten Thousand Dollars (\$10,000.00).

B. No action may be brought under the small claims procedure by any collection agency, collection agent, or assignee of a claim, except that an action may be brought against an insurer or third-party administrator by a health care provider as that term is defined in Section 6552 of Title 36 of the Oklahoma Statutes, who is an assignee of benefits available under an accident and health insurance policy, trust, plan, or contract.

C. In those cases which are uncontested:

1. Except as provided in paragraph 2 of this subsection, the amount of attorney fees allowed shall not exceed ten percent (10%) of the judgment. ~~Additionally, upon;~~

2. Upon application to the court supported by sufficient documentation, the court may award attorney fees not to exceed twenty-five percent (25%) of the judgment.

Nothing in this subsection shall be construed to limit the amount of attorney fees awarded in contested cases. Further, nothing in this subsection shall be construed to prohibit an award of attorney fees for the defense of an action brought under the small claims procedure.

D. No action may be brought under the small claims procedure for any alleged claim against any city, county or state agency, or employee of a city, county or state agency, if the claim alleges matters arising from incarceration, probation, parole or community supervision.

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

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

SECTION 2. This act shall become effective November 1, 2019.

Passed the House of Representatives the 12th day of March, 2019.

Presiding Officer of the House
of Representatives

Passed the Senate the 8th day of April, 2019.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____