

1 **SENATE FLOOR VERSION**

2 April 2, 2019

3 ENGROSSED HOUSE
4 BILL NO. 1092

By: Osburn of the House

5 and

6 Pugh of the Senate

7
8 An Act relating to small claims procedure; amending
9 12 O.S. 2011, Section 1751, as last amended by
10 Section 1, Chapter 389, O.S.L. 2017 (12 O.S. Supp.
11 2018, Section 1751), which relates to suits
12 authorized under small claims procedure; clarifying
13 limits for awarding attorney fees in uncontested
14 cases; construing provision to exclude award limits
15 for contested cases; construing provision to not
16 prohibit awarding attorney fees; and providing an
17 effective date.

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

19 SECTION 1. AMENDATORY 12 O.S. 2011, Section 1751, as
20 last amended by Section 1, Chapter 389, O.S.L. 2017 (12 O.S. Supp.
21 2018, Section 1751), is amended to read as follows:

22 Section 1751. A. The following suits may be brought under the
23 small claims procedure:

24 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

1 and other court costs, does not exceed Ten Thousand Dollars
2 (\$10,000.00);

3 2. Actions to replevy personal property the value of which does
4 not exceed Ten Thousand Dollars (\$10,000.00). If the claims for
5 possession of personal property and to recover money are pled in the
6 alternative, the joinder of claims is permissible if neither the
7 value of the property nor the total amount of money sought to be
8 recovered, exclusive of attorney fees and other costs, exceeds Ten
9 Thousand Dollars (\$10,000.00); and

10 3. Actions in the nature of interpleader, as provided for in
11 Section 2022 of this title, in which the value of the money which is
12 the subject of such action does not exceed Ten Thousand Dollars
13 (\$10,000.00).

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

21 C. In those cases which are uncontested:

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

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

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

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

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

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

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

21 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
22 April 2, 2019 - DO PASS
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