

State of Arkansas

76th General Assembly

Regular Session, 1987

AS ENGROSSED 2/5/87

HOUSE BILL 1283

By: Representatives Matthews, Calhoun and Wynne AS ENGROSSED 2/12/87

"AN ACT TO AMEND VARIOUS SECTIONS OF ACT 725 OF 1977, AS AMENDED, AND ACT 905 OF 1979, AS AMENDED, THE SMALL CLAIMS PROCEDURE ACTS, TO PROVIDE THAT A SMALL CLAIMS DIVISION SHALL BE ESTABLISHED IN EACH MUNICIPAL COURT; THAT A REFEREE MAY BE APPOINTED TO HEAR SMALL CLAIMS; THAT A WRITTEN RESPONSE BE REQUIRED; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Section 2 of Act 725 of 1977, the same being Arkansas Statute 22-758.1, is hereby amended to read as follows:

"Section 2. Each municipal court in this State shall establish a Division within such court to be known as the 'Small Claims Division', which shall have the same jurisdiction over amounts in controversy as authorized by Amendment 64 to the Constitution of the State of Arkansas. Provided, however, in counties having more than one municipal court, the judges of the respective courts may, by written agreement, designate one or more municipal courts to be responsible for all Small Claims litigation arising within that county.

(a) The Small Claims Division may maintain its own docket of the municipal court, and the docket shall be heard at times and places as may be determined by the judge or judges of the municipal court;

(b) If in the judgment of the said judge or judges it is necessary for the prompt and efficient disposal of cases filed in the Small Claims Division to have a referee to take the testimony, the said judge, or a majority of the judges, may appoint a referee to conduct hearings and take testimony in small claims cases and make his recommendation of law and fact to the judge;

(c) The referee shall have the same qualifications as are required of the municipal judge;

(d) The referee shall serve at the pleasure of the judge or judges who

appointed him and shall receive as compensation the sum of Seven Dollars (\$7.00) per case; and

(e) The fees collected under this Act shall be kept in a separate fund, and the compensation for the referee of small claims cases as provided herein shall be paid to the referee monthly from the fund by the municipal clerk;

(f) Under no circumstances shall the municipal judge or judges of the municipal court receive the compensation for the referee in those cases heard by the court."

SECTION 2. Section 5 of Act 725 of 1977, as amended, the same being Arkansas Statute 22-758.4, is hereby amended to read as follows:

"Section 5. Actions under the Small Claims Procedure shall be commenced whenever the claimant, or the personal representative of a deceased claimant shall file with the clerk of the court a claim in substantially the following form:

In the Municipal Court of \_\_\_\_\_,  
State of Arkansas.

\_\_\_\_\_  
Plaintiff  
vs. Small Claims Division  
No. \_\_\_\_\_

\_\_\_\_\_  
Defendant  
Defendant's Address: \_\_\_\_\_

Nature of Claim: \_\_\_\_\_

Nature and Amount  
of Relief Claimed: \_\_\_\_\_

Date Claim Arose: \_\_\_\_\_

Factual Basis  
of Claim: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Plaintiff

\_\_\_\_\_  
Plaintiff's Address

\_\_\_\_\_

NOTICE TO DEFENDANT

You are hereby warned to file a written answer with the clerk of this court within twenty days after you receive this claim and forward a copy to the plaintiff at the address above or a default judgment may be entered against you.

\_\_\_\_\_  
(Signature of Clerk or Judge)

\_\_\_\_\_  
Municipal Court Clerk

Address: \_\_\_\_\_  
\_\_\_\_\_

RETURN

STATE OF ARKANSAS

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, certify that I served the within Claim Form on the defendant, \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_m. on \_\_\_\_\_, 19\_\_ by \_\_\_\_\_.

(Show manner of service)

\_\_\_\_\_  
Name and Office, if any

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_  
(To be completed if service by other than Sheriff, Constable or Clerk)

\_\_\_\_\_  
Notary Public

My commission expires:  
\_\_\_\_\_ "

SECTION 3. Section 6 of Act 725 of 1977, the same being Arkansas Statute 22-758.5, is hereby amended to read as follows:

"Section 6. The plaintiff shall prepare the claim form as is set forth in Section 5 of this Act. Such claim form shall be presented by the plaintiff in person. Upon receipt of said claim form and filing fee, the clerk shall file the same and proceed to assist the plaintiff in obtaining service on the defendant. In all cases, a copy of the answer form in substantially the same

form as set forth in Section 10 of this Act shall be included by the clerk with the claim form to be served on the defendant."

SECTION 4. Section 7 of Act 725 of 1977, the same being Arkansas Statute 22-758.6, is hereby amended to read as follows:

"Section 7. Unless service by the Sheriff or other authorized person is requested by the plaintiff, the defendant shall be served by certified mail. The clerk shall enclose a copy of the claim form in an envelope addressed to the defendant at the address stated in the claim form, prepay the postage, the cost of which may be collected from the plaintiff at time of filing, and mail said envelope to said defendant by certified mail and request a return receipt from addressee only. The clerk shall attach to the original claim form the receipt for the certified letter and the return card thereon or other evidence of service of the claim form. Service hereunder shall be in accordance with Rule 4 of the Arkansas Rules of Civil Procedure."

SECTION 5. Section 8 of Act 725 of 1977, the same being Arkansas Statute 22-758.7, is hereby amended to read as follows:

"Section 8. A defendant shall file his answer with the clerk of the court within twenty (20) days after the service of the claim form upon him, except when service is upon a non-resident of this State, in which event he shall have thirty (30) days after service of the claim form upon him within which to file his answer. The defendant shall mail a copy of his answer to the plaintiff."

SECTION 6. Section 10 of Act 725 of 1977, the same being Arkansas Statute 22-758.9, is hereby amended to read as follows:

"Section 10. The defendant shall file with the clerk of the court his answer and assert any affirmative relief he may claim in substantially the following form:

In the Municipal Court of \_\_\_\_\_  
State of Arkansas.

\_\_\_\_\_  
Plaintiff

vs.

Small Claims Division

No. \_\_\_\_\_

Defendant

Defendant's Address: \_\_\_\_\_

Reason for Denial

of Plaintiff's Claim: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Nature and Amount of

Affirmative Relief (if any): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Date Affirmative

Claim Arose: \_\_\_\_\_

Factual Basis of

Affirmative Claim: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Signature of Defendant)

SECTION 7. Section 11 of Act 725 of 1977, the same being Arkansas Statute 22-758.10, is hereby amended to read as follows:

"Section 11. No prejudgment attachment or prejudgment garnishment shall issue in any suit under the Small Claims Procedure. Proceedings to enforce or collect a judgment shall be in all respects as in other cases, except that security interests may be proved at the same time as the proof of the claim and the order of judgment may include an order of delivery directing the sheriff to deliver the property subject to the security interests to the plaintiff. If the court issues an order of delivery no further action shall be necessary on the part of the plaintiff to obtain possession of such property. No depositions shall be taken or interrogatories or other discovery proceedings shall be used under the Small Claims Procedure except in the aid of execution. No new parties shall be brought into the action and no party shall be allowed to intervene."

SECTION 8. Section 12 of Act 725 of 1977, the same being Arkansas

Statute 22-758.11, is hereby amended to read as follows:

"Section 12. Actions under the Small Claims Procedure may be noted on a separate docket and shall be tried informally before the Court with relaxed rules of evidence."

SECTION 9. Section 13 of Act 725 of 1977, the same being Arkansas Statute 22-758.12, is hereby amended to read as follows:

"Section 13. The fee for filing of the claim form for the commencement of any action under the Small Claims Procedure shall be the same as those fees for civil cases in Municipal Court."

SECTION 10. Section 15 of Act 725 of 1977, the same being Arkansas Statute 22-758.14, is hereby amended to read as follows:

"Section 15. Except as otherwise ordered by the court, no execution or enforcement proceedings shall issue on any judgment until after the expiration of ten (10) days from the entry thereof."

SECTION 11. Section 16 of Act 725 of 1977, the same being Arkansas Statute 22-758.15, is hereby amended to read as follows:

"Section 16. Appeals may be taken from the judgment rendered under Small Claims Procedure in the same manner as other civil appeals are taken from municipal courts."

SECTION 12. Section 1 of Act 905 of 1979, as amended, the same being Arkansas Statute 22-758.16, is hereby amended to read as follows:

"Section 1. Corporations, other than those identified in Section 3 of Act 725 of 1977 (Ark. Stat. 22-758.2), organized under the laws of this State and which have no more than three (3) stockholders may sue and be sued in small claims courts created pursuant to Act 725 of 1977; provided, that such corporations shall be represented in such proceedings by officers of such corporations."

SECTION 13. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 14. Effective Date. This Act shall become effective on July 1,

1987.