

LEGISLATIVE BILL 283

Approved by the Governor March 14, 1975

Introduced by Judiciary Committee, Luedtke, 28, Chmn.;  
Barnett, 26; DeCamp, 40; Anderson, 37; Nichol,  
48; Chambers, 11

AN ACT to amend sections 24-524, 24-525, and 24-527,  
Revised Statutes Supplement, 1974, relating to  
the Small Claims Court; to clarify service  
requirements; to provide an additional fee; to  
provide appeal procedure; to repeal the  
original sections; and to declare an  
emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 24-524, Revised Statutes  
Supplement, 1974, be amended to read as follows:

24-524. (1) Actions in the Small Claims Court  
shall be commenced by the filing of a claim by the  
plaintiff on a form provided by the clerk of the county  
court or municipal court. The claim form shall be  
executed by the plaintiff in the presence of a judge or  
the clerk of the county or municipal court or his deputy  
or assistant designated by him.

(2) At the time of the filing of the claim, the  
plaintiff shall pay a fee of two dollars to the clerk.

(3) Upon filing of a claim in the Small Claims  
Court, the court shall set a time for hearing and shall  
cause notice to be served upon the defendant. Notice  
shall be served not less than five days before the time  
set for hearing. Notice shall consist of a copy of the  
complaint and a summons directing the defendant to appear  
at the time set for hearing and informing the defendant  
that if he fails to appear, judgment will be entered  
against him. Notice shall be served **personally** in the  
same manner as for other actions in the county or  
municipal court or by mail, at the option of the  
plaintiff as stated in writing in the claim. When  
service by mail is requested, the court shall mail the  
notice by registered or certified mail, return receipt  
requested, to the defendant at the address given in the  
claim. Service by mail shall be complete upon return to  
the court of the receipt signed by the defendant, and  
such receipt shall be prima facie evidence of such  
service. The cost of service shall be paid by the  
plaintiff, but such cost and filing fee shall be added to  
any judgment given the plaintiff.

(4) The defendant may file a setoff or counterclaim in an amount not in excess of five hundred dollars, exclusive of interest and costs. Any setoff or counterclaim shall be filed and a copy delivered to the plaintiff at least two days prior to the time of trial. If the setoff or counterclaim exceeds the jurisdictional limits of the Small Claims Court, the court shall cause the entire matter to be transferred to the regular county or municipal court docket and set for trial.

(5) No prejudgment actions for attachment, garnishment, replevin, or other provisional remedy may be filed in the Small Claims Court.

(6) All forms required by this section shall be prescribed by the Supreme Court. The claim form shall provide for the names and addresses of the plaintiff and defendant, and a concise statement of the nature, amount, and time and place of accruing of the claim, and shall also contain a brief explanation of the Small Claims Court procedure and methods of appeal therefrom.

Sec. 2. That section 24-525, Revised Statutes Supplement, 1974, be amended to read as follows:

24-525. All matters in the Small Claims Court shall be tried to the court without a jury. If the defendant in any action desires ~~trial--to--a--jury~~ to transfer the case to the regular docket, he shall give notice to the court prior to the time set for the hearing, and the case shall be transferred to the regular docket of the county or municipal court and shall thereafter be subject to all provisions of law and rules of court applicable to proceedings in the county or municipal court. The party causing the transfer of a case from the Small Claims Court to the regular docket shall pay a fee of eight dollars at the time he files his setoff, counterclaim, or request for such transfer.

Sec. 3. That section 24-527, Revised Statutes Supplement, 1974, be amended to read as follows:

24-527. If either party is dissatisfied with the judgment of the Small Claims Court, he may appeal to the district court of the county where the judgment was rendered. Any such appeal shall be ~~tried-de-novo-without a-jury~~ subject to the provisions of sections 24-542 to 24-544, except that no bill of exceptions shall be required. Parties may be represented by attorneys on appeal, and the district court shall try any such appeal de novo without a jury, pursuant to the rules of civil procedure in the district courts.

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Sec. 4. That original sections 24-524, 24-525, and 24-527, Revised Statutes Supplement, 1974, are repealed.

Sec. 5. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.