

LEGISLATIVE BILL 125

Approved by the Governor February 28, 1986

Introduced by Hefner, 19

AN ACT relating to Small Claims Court; to amend section 24-524, Revised Statutes Supplement, 1985; to change provisions relating to claim forms; and to repeal the original section.

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

Section 1. That section 24-524, Revised Statutes Supplement, 1985, be amended to read as follows:

24-524. (1) Actions in the Small Claims Court shall be commenced by the filing of a claim, personally or by mail, by the plaintiff on a form provided by the clerk of ~~the~~ a county court. The claim form shall be executed by the plaintiff in the presence of a judge, ~~or the a clerk or deputy or assistant clerk of the a county court, or a deputy or assistant designated by the clerk notary public of the State of Nebraska.~~ If not filed in person, the claim form and appropriate fees shall be mailed by the plaintiff to the court of proper jurisdiction.

(2) At the time of the filing of the claim, the plaintiff shall pay a fee of five 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 or she fails to appear, judgment will be entered against him or her. Notice shall be served in the manner provided for service of a summons in a civil action, except that service by certified mail shall be made by the clerk. 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. 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 as established pursuant to section 24-522, the court shall cause the entire matter to be transferred to the regular county 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 an acknowledgement for use by the person in whose presence the claim form is executed and shall also contain a brief explanation of the Small Claims Court procedure and methods of appeal therefrom.

(7) Judgments rendered against a defendant in his or her absence may not be set aside but may only be appealed as governed by section 24-527.

Sec. 2. That original section 24-524, Revised Statutes Supplement, 1985, is repealed.