

AMENDMENTS TO LB912

(Amendments to E & R amendments, ER206)

Introduced by Lathrop, 12.

1 1. Strike sections 1 to 7 and insert the following new sections:

2 Section 1. Sections 1 to 9 of this act shall be known and may be
3 cited as the County Court Expedited Civil Actions Act.

4 Sec. 2. (1) The County Court Expedited Civil Actions Act applies to
5 civil actions in county court in which the sole relief sought is a money
6 judgment and in which the claim of each plaintiff is less than or equal
7 to the county court jurisdictional amount set forth in subdivision (5) of
8 section 24-517, including damages of any kind, penalties, interest
9 accrued before the filing date, and attorney's fees, but excluding
10 prejudgment interest accrued after the filing date, postjudgment
11 interest, and costs.

12 (2) The act does not apply to Small Claims Court actions or domestic
13 relations matters or paternity or custody determinations as defined in
14 section 25-2740.

15 (3) For the purposes of the act, side means all litigants with
16 generally common interests in the litigation.

17 Sec. 3. (1) Eligible plaintiffs may elect to proceed under the
18 County Court Expedited Civil Actions Act by certifying that the relief
19 sought meets the requirements of section 2 of this act. The certification
20 must be on a form approved by the Supreme Court, signed by all plaintiffs
21 and their attorneys, if represented, and filed with the complaint. The
22 certification is not admissible to prove a plaintiff's damages in any
23 proceeding.

24 (2) Except as otherwise specifically provided, the Nebraska laws and
25 court rules that are applicable to civil actions are applicable to
26 actions under the act.

1 (3) A party proceeding under the act may not recover a judgment in
2 excess of the county court jurisdictional amount set forth in subdivision
3 (5) of section 24-517, nor may a judgment be entered against a party in
4 excess of such amount, excluding prejudgment interest that accrues after
5 the filing date, postjudgment interest, and costs. The jury, if any, must
6 not be informed of the county court jurisdictional amount. If the jury
7 returns a verdict for damages in excess of the county court
8 jurisdictional amount for or against a party, the court shall not enter
9 judgment on that verdict in excess of such amount, exclusive of the
10 prejudgment interest that accrues after the filing date, postjudgment
11 interest, and costs.

12 (4) Upon timely application of any party, the county court may
13 terminate application of the act and enter such orders as are appropriate
14 under the circumstances if:

15 (a) The moving party makes a specific showing of substantially
16 changed circumstances sufficient to render the application of the act
17 unfair; or

18 (b) A party has in good faith filed a counterclaim that seeks relief
19 other than that allowed under the act.

20 (5) A party may assert a counterclaim only if the counterclaim
21 arises out of the same transaction or occurrence as the opposing party's
22 claim. Any such counterclaim is subject to the county court
23 jurisdictional limit on damages under the act, unless the court severs
24 the counterclaim or certifies the action to district court pursuant to
25 section 25-2706 on the grounds that the amount in controversy exceeds the
26 county court jurisdictional limit.

27 Sec. 4. (1) Except upon agreement of the parties or leave of court
28 granted upon a showing of good cause, all discovery under the County
29 Court Expedited Civil Actions Act must be completed no later than sixty
30 days before trial.

31 (2) Except upon agreement of the parties or leave of court granted

1 upon a showing of good cause, discovery under the act is subject to the
2 following additional limitations:

3 (a) Each side shall serve no more than ten interrogatories on any
4 other side;

5 (b) Each side shall serve no more than ten requests for production
6 on any other side;

7 (c) Each side shall serve no more than ten requests for admission on
8 any other side. This limit does not apply to requests for admission of
9 the genuineness of documents that a party intends to offer into evidence
10 at trial;

11 (d) One deposition of each party may be taken. With regard to
12 corporations, partnerships, voluntary associations, or any other groups
13 or entities named as a party, the entity or one officer, member, or
14 employee of such entity may be deposed; and

15 (e) Each side may take the deposition of up to two nonparties.

16 (3) Each side is entitled to one expert, except upon agreement of
17 the parties or leave of court granted upon a showing of good cause. A
18 treating health care provider is counted as an expert for purposes of
19 this subsection.

20 (4) A motion for leave of court to modify the limitations set forth
21 in this section must be in writing and must set forth the proposed
22 additional discovery or expert and the reasons establishing good cause.

23 Sec. 5. (1) Any party may file any motion permitted under rules
24 adopted by the Supreme Court for pre-answer motions.

25 (2) A motion for summary judgment must be filed no later than ninety
26 days before trial.

27 Sec. 6. An action under the County Court Expedited Civil Actions
28 Act should ordinarily be submitted to the jury or the court within two
29 business days from the commencement of trial. Unless the court allows
30 additional time for good cause shown, each side shall be allowed no more
31 than six hours to complete jury selection, opening statements,

1 presentation of evidence, examination and cross-examination of witnesses,
2 and closing arguments. Time spent on objections, bench conferences, and
3 challenges for cause to a juror are not included in the time limit.

4 Sec. 7. (1) Parties to an action under the County Court Expedited
5 Civil Actions Act should stipulate to factual and evidentiary matters to
6 the greatest extent possible.

7 (2) For purposes of the act, the court may overrule objections based
8 on authenticity and hearsay to the admission of a document,
9 notwithstanding the absence of testimony or certification from a
10 custodian or other qualified witness, if:

11 (a) The party offering the document gives notice to all other
12 parties of the party's intention to offer the document into evidence at
13 least ninety days in advance of trial. The notice must be given to all
14 parties together with a copy of any document intended to be offered;

15 (b) The document on its face appears to be what the proponent claims
16 it is;

17 (c) The document on its face appears not to be hearsay or appears to
18 fall within a hearsay exception set forth in Nebraska law; and

19 (d) The objecting party has not raised a substantial question as to
20 the authenticity or trustworthiness of the document.

21 (3) Except as otherwise specifically provided by the act, the
22 Nebraska Evidence Rules are applicable to actions under the act.

23 (4) Nothing in subsection (2) of this section authorizes admission
24 of a document that contains hearsay within hearsay, unless the court
25 determines from the face of the document that each part of the combined
26 statements conforms with a hearsay exception set forth in Nebraska law.

27 (5) Any authenticity or hearsay objections to a document as to which
28 notice has been provided under subdivision (2)(a) of this section must be
29 made within thirty days after receipt of the notice.

30 (6)(a) The report of any treating health care provider concerning
31 the plaintiff may be used in lieu of deposition or in-court testimony of

1 the health care provider, so long as the report offered into evidence is
2 on a form adopted for such purpose by the Supreme Court and is signed by
3 the health care provider making the report.

4 (b) The Supreme Court shall adopt a form for the purposes of
5 subdivision (6)(a) of this section.

6 (c) Unless otherwise stipulated or ordered by the court, a copy of
7 any completed health care provider report under subdivision (6)(a) of
8 this section must be served on all parties at least ninety days in
9 advance of trial. Any objections to the health care provider statement,
10 including an objection that the statement is incomplete or does not
11 otherwise comply with this subsection, must be made within thirty days
12 after receipt of the statement. For good cause shown, the court may issue
13 such orders regarding the health care provider report as justice may
14 require, including an order permitting a health care provider to
15 supplement the report.

16 (d) Any party against whom a health care provider report may be used
17 has the right, at the party's own initial expense, to cross-examine by
18 deposition the health care provider signing the report, and the
19 deposition may be used at trial.

20 (e) The deposition of the health care provider and the discovery of
21 facts or opinions held by an expert are not counted for purposes of the
22 numerical limits of section 4 of this act.

23 Sec. 8. The Supreme Court may promulgate rules and forms for actions
24 governed by the County Court Expedited Civil Actions Act, and such rules
25 and forms shall not be in conflict with the act.

26 Sec. 9. The County Court Expedited Civil Actions Act applies to
27 civil actions filed on or after January 1, 2022.

28 2. On page 15, line 13, strike "9" and insert "11".

29 3. Renumber the remaining sections accordingly.