

LEGISLATIVE BILL 117

Approved by the Governor February 28, 1979

Introduced by Johnson, 8; Beutler, 28

AN ACT to amend section 24-524, Reissue Revised Statutes of Nebraska, 1943, and section 24-522, Revised Statutes Supplement, 1978, relating to the Small Claims Court; to increase the jurisdiction of the court; and to repeal the original sections.

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

Section 1. That section 24-522, Revised Statutes Supplement, 1978, be amended to read as follows:

24-522. (1) The Small Claims Court shall have subject matter jurisdiction in all civil actions of any type when the amount of money or damages or the value of the personal property claimed does not exceed five hundred one thousand dollars, exclusive of interest and costs.

(2) The Small Claims Court shall have subject matter jurisdiction in civil matters when the plaintiff seeks to disaffirm, avoid, or rescind a contract or agreement for the purchase of goods or services not in excess of five hundred one thousand dollars, exclusive of interest and costs.

(3) The Small Claims Court shall have jurisdiction when the party defendant or his or her agent resides or is doing business within the county or when the cause of action arose within the county.

Sec. 2. That section 24-524, Reissue Revised Statutes of Nebraska, 1943, 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 a deputy or assistant designated by him the clerk.

(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 or she fails to appear, judgment will be entered against him or her. Notice shall be served 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 one thousand 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. 3. That original section 24-524, Reissue Revised Statutes of Nebraska, 1943, and section 24-522, Revised Statutes Supplement, 1978, are repealed.