

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 859

Introduced by Lautenbaugh, 18.

Read first time January 11, 2010

Committee: Judiciary

A BILL

1 FOR AN ACT relating to courts; to amend sections 25-2705 and
2 25-2805, Reissue Revised Statutes of Nebraska; to change
3 provisions relating to trial by jury; to harmonize
4 provisions; to provide an operative date; and to repeal
5 the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 25-2705, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 25-2705 Either party to any case in county court, except
4 criminal cases ~~arising~~ for which the maximum sentence is less
5 than six months imprisonment and which arise under city or village
6 ordinances, traffic infractions, or other infractions, and any
7 matter arising under the Nebraska Probate Code or the Nebraska
8 Uniform Trust Code, may demand a trial by jury. In civil cases,
9 the demand shall be in writing and shall be filed ~~on or before~~
10 ~~answer day except as otherwise provided in section 25-2805-~~ with
11 the court:

12 (1) By a plaintiff on the date the complaint is filed
13 with the court;

14 (2) By a defendant on or before the date the answer is
15 filed with the court;

16 (3) By a counterclaimant on the date the counterclaim is
17 filed with the court;

18 (4) By a counterclaim defendant on or before the date the
19 reply to the counterclaim is filed with the court;

20 (5) By a third-party plaintiff on the date the
21 third-party complaint is filed with the court;

22 (6) By a third-party defendant on or before the date the
23 answer to the third-party complaint is filed with the court;

24 (7) By a cross-claimant on the date the cross-claim is
25 filed with the court; or

1 (8) By a cross-claim defendant on or before the date the
 2 answer to the cross claim is filed with the court.

3 All provisions of law relating to juries in the district
 4 courts shall apply to juries in the county courts, and the district
 5 court jury list shall be used, except that juries in the county
 6 courts shall consist of six persons.

7 Sec. 2. Section 25-2805, Reissue Revised Statutes of
 8 Nebraska, is amended to read:

9 25-2805 All matters in the Small Claims Court shall be
 10 tried to the court without a jury. Except as provided in section
 11 25-2618.01, any defendant in an action or such defendant's attorney
 12 may transfer the case to the regular docket of the county court
 13 by giving notice to the court at least two days prior to the time
 14 set for the hearing. Upon such notice the case shall be transferred
 15 to the regular docket of the county court. ~~At the same time as~~
 16 ~~such notice is given to transfer the case, any defendant or such~~
 17 ~~defendant's attorney may demand trial by jury, and the Small Claims~~
 18 ~~Court shall forward the demand to the county court.~~ The party
 19 causing the transfer of a case from the Small Claims Court to the
 20 regular docket shall pay as a fee the difference between the fee
 21 for filing a claim in Small Claims Court and the fee for filing a
 22 claim on the regular docket.

23 In any action transferred to the regular docket there
 24 shall be no ~~further pleadings, motions challenging pleadings, or~~
 25 ~~discovery~~ unless ordered by the court upon a showing that any such

1 procedure is necessary to the prompt and just determination of the
2 action. In any action transferred to the regular docket a defendant
3 shall file an answer. Any jury demand in cases transferred from
4 Small Claims Court to county court shall be made within the
5 timeframes provided in section 25-2705.

6 Sec. 3. This act becomes operative on January 1, 2011.

7 Sec. 4. Original sections 25-2705 and 25-2805, Reissue
8 Revised Statutes of Nebraska, are repealed.