

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 349

Introduced by Lautenbaugh, 18.

Read first time January 13, 2011

Committee: Judiciary

A BILL

- 1 FOR AN ACT relating to civil procedure; to amend sections 25-2705 and
- 2 25-2805, Reissue Revised Statutes of Nebraska; to change
- 3 demand for trial by jury; to harmonize provisions; and to
- 4 repeal the original sections.
- 5 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 (1) Either party to any case in county court,
4 except criminal cases arising under city or village ordinances,
5 traffic infractions, other infractions, and any matter arising under
6 the Nebraska Probate Code or the Nebraska Uniform Trust Code, may
7 demand a trial by jury. In civil cases, the demand shall be in
8 writing and shall be filed ~~on or before answer day except as~~
9 ~~otherwise provided in section 25-2805.~~ with the court:

10 (a) By a plaintiff on the date the complaint is filed
11 with the court;

12 (b) By a defendant on or before the date the answer is
13 filed with the court;

14 (c) By a counterclaimant on the date the counterclaim is
15 filed with the court;

16 (d) By a counterclaim defendant on or before the date the
17 reply to the counterclaim is filed with the court;

18 (e) By a third-party plaintiff on the date the third-
19 party complaint is filed with the court;

20 (f) By a third-party defendant on or before the date the
21 answer to the third party complaint is filed with the court;

22 (g) By a cross-claimant on the date the cross claim is
23 filed with the court; and

24 (h) By a cross-claim defendant on or before the date the
25 answer to the cross-claim is filed with the court.

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

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

7 25-2805 All matters in the Small Claims Court shall be
8 tried to the court without a jury. Except as provided in section
9 25-2618.01, any defendant in an action or such defendant's attorney
10 may transfer the case to the regular docket of the county court by
11 giving notice to the court at least two days prior to the time set
12 for the hearing. Upon such notice the case shall be transferred to
13 the regular docket of the county court. ~~At the same time as such~~
14 ~~notice is given to transfer the case, any defendant or such~~
15 ~~defendant's attorney may demand trial by jury, and the Small Claims~~
16 ~~Court shall forward the demand to the county court.~~ The party causing
17 the transfer of a case from the Small Claims Court to the regular
18 docket shall pay as a fee the difference between the fee for filing a
19 claim in Small Claims Court and the fee for filing a claim on the
20 regular docket.

21 In any action transferred to the regular docket there
22 shall be no ~~further pleadings, motions challenging pleadings, or~~
23 ~~discovery~~ unless ordered by the court upon a showing that any such
24 procedure is necessary to the prompt and just determination of the
25 action. In any action transferred to the regular docket a defendant

1 shall file an answer. Any jury demand in cases transferred from small
2 claims court to county court shall be made within the timeframes
3 provided in section 25-2705.

4 Sec. 3. Original sections 25-2705 and 25-2805, Reissue
5 Revised Statutes of Nebraska, are repealed.