

HOUSE AMENDMENTS TO A-ENGROSSED SENATE BILL 306

By COMMITTEE ON JUDICIARY

June 1

1 On page 1 of the printed A-engrossed bill, delete lines 4 through 26 and insert:

2 **“SECTION 1.** ORS 20.080 is amended to read:

3 “20.080. (1) In any action for damages for an injury or wrong to the person or property, or both,
4 of another where the amount pleaded is [~~\$5,500~~] **\$7,500** or less, and the plaintiff prevails in the
5 action, there shall be taxed and allowed to the plaintiff, at trial and on appeal, a reasonable amount
6 to be fixed by the court as attorney fees for the prosecution of the action, if the court finds that
7 written demand for the payment of such claim was made on the defendant, **and on the defendant’s**
8 **insurer, if known to the plaintiff**, not less than [10] **30** days before the commencement of the
9 action or the filing of a formal complaint under ORS 46.465, or not more than [10] **30** days after the
10 transfer of the action under ORS 46.461. However, no attorney fees shall be allowed to the plaintiff
11 if the court finds that the defendant tendered to the plaintiff, prior to the commencement of the
12 action or the filing of a formal complaint under ORS 46.465, or not more than [10] **30** days after the
13 transfer of the action under ORS 46.461, an amount not less than the damages awarded to the
14 plaintiff.

15 “(2) If the defendant pleads a counterclaim, not to exceed [~~\$5,500~~] **\$7,500**, and the defendant
16 prevails in the action, there shall be taxed and allowed to the defendant, at trial and on appeal, a
17 reasonable amount to be fixed by the court as attorney fees for the prosecution of the counterclaim.

18 **“(3) A written demand for the payment of damages under this section must include the**
19 **following information, if the information is in the plaintiff’s possession or reasonably avail-**
20 **able to the plaintiff at the time the demand is made:**

21 **“(a) In an action for an injury or wrong to a person, a copy of medical records and bills**
22 **for medical treatment adequate to reasonably inform the person receiving the written de-**
23 **mand of the nature and scope of the injury claimed; or**

24 **“(b) In an action for damage to property, documentation of the repair of the property, a**
25 **written estimate for the repair of the property or a written estimate of the difference in the**
26 **value of the property before the damage and the value of the property after the damage.**

27 **“(4) If after making a demand under this section, and before commencing an action, a**
28 **plaintiff acquires any additional information described in subsection (3) of this section that**
29 **was not provided with the demand, the plaintiff must provide that information to the de-**
30 **fendant, and to the defendant’s insurer, if known to the plaintiff, as soon as possible after**
31 **the information becomes available to the plaintiff.**

32 **“(5) A plaintiff may not recover attorney fees under this section if the plaintiff does not**
33 **comply with the requirements of subsections (3) and (4) of this section.**

34 “[3] (6) The provisions of this section do not apply to any action based on contract.

35 **“SECTION 2.** (1) **Except as provided in subsection (2) of this section, the amendments to**

1 **ORS 20.080 by section 1 of this 2009 Act apply to all causes of action, whether arising before,**
2 **on or after the effective date of this 2009 Act.**

3 **“(2) The amendments to ORS 20.080 by section 1 of this 2009 Act do not apply to an action**
4 **that was filed before the effective date of this 2009 Act.**

5 **“SECTION 3.** ORS 20.080, as amended by section 1 of this 2009 Act, is amended to read:

6 “20.080. (1) In any action for damages for an injury or wrong to the person or property, or both,
7 of another where the amount pleaded is [~~\$7,500~~] **\$10,000** or less, and the plaintiff prevails in the
8 action, there shall be taxed and allowed to the plaintiff, at trial and on appeal, a reasonable amount
9 to be fixed by the court as attorney fees for the prosecution of the action, if the court finds that
10 written demand for the payment of such claim was made on the defendant, and on the defendant’s
11 insurer, if known to the plaintiff, not less than 30 days before the commencement of the action or
12 the filing of a formal complaint under ORS 46.465, or not more than 30 days after the transfer of the
13 action under ORS 46.461. However, no attorney fees shall be allowed to the plaintiff if the court
14 finds that the defendant tendered to the plaintiff, prior to the commencement of the action or the
15 filing of a formal complaint under ORS 46.465, or not more than 30 days after the transfer of the
16 action under ORS 46.461, an amount not less than the damages awarded to the plaintiff.

17 “(2) If the defendant pleads a counterclaim, not to exceed [~~\$7,500~~] **\$10,000**, and the defendant
18 prevails in the action, there shall be taxed and allowed to the defendant, at trial and on appeal, a
19 reasonable amount to be fixed by the court as attorney fees for the prosecution of the counterclaim.

20 “(3) A written demand for the payment of damages under this section must include the following
21 information, if the information is in the plaintiff’s possession or reasonably available to the plaintiff
22 at the time the demand is made:

23 “(a) In an action for an injury or wrong to a person, a copy of medical records and bills for
24 medical treatment adequate to reasonably inform the person receiving the written demand of the
25 nature and scope of the injury claimed; or

26 “(b) In an action for damage to property, documentation of the repair of the property, a written
27 estimate for the repair of the property or a written estimate of the difference in the value of the
28 property before the damage and the value of the property after the damage.

29 “(4) If after making a demand under this section, and before commencing an action, a plaintiff
30 acquires any additional information described in subsection (3) of this section that was not provided
31 with the demand, the plaintiff must provide that information to the defendant, and to the defendant’s
32 insurer, if known to the plaintiff, as soon as possible after the information becomes available to the
33 plaintiff.

34 “(5) A plaintiff may not recover attorney fees under this section if the plaintiff does not comply
35 with the requirements of subsections (3) and (4) of this section.

36 “(6) The provisions of this section do not apply to any action based on contract.

37 **“SECTION 4. (1) The amendments to ORS 20.080 by section 3 of this 2009 Act become**
38 **operative on January 1, 2012.**

39 **“(2) Except as provided in subsection (3) of this section, the amendments to ORS 20.080**
40 **by section 3 of this 2009 Act apply to all causes of action, whether arising before, on or after**
41 **January 1, 2012.**

42 **“(3) The amendments to ORS 20.080 by section 3 of this 2009 Act do not apply to an action**
43 **that was filed before January 1, 2012.”.**

44 On page 2, delete lines 1 through 14.

45 In line 15, delete “3” and insert “5”.

- 1 In line 42, delete "4" and insert "6".
- 2 In line 43, delete "3" and insert "5".
- 3 In line 45, delete "3" and insert "5".
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