

House Bill 2699

Sponsored by Representative KENNEMER (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits public body from requesting jury trial in small claims action in which plaintiff brings only claims for damage to property.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to claims against public bodies; creating new provisions; amending ORS 46.455; and de-
3 claring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 46.455 is amended to read:

6 46.455. Within 14 days after the date of service of the notice and claim upon the defendant as
7 provided in ORS 46.445:

8 (1) If the defendant admits the claim, the defendant may settle it by:

9 (a) Paying to the plaintiff the amount of the claim plus the amount of all filing fees and service
10 expenses paid by the plaintiff and mailing proof of that payment to the court.

11 (b) If the claim is for recovery of specific personal property, delivering the property to the
12 plaintiff and paying to the plaintiff the amount of all filing fees and service expenses paid by the
13 plaintiff and mailing proof of that delivery and payment to the court.

14 (2) If the defendant denies the claim, the defendant:

15 (a) May demand a hearing in the small claims department in a written request to the clerk in
16 the form prescribed by the court, accompanied by payment of the defendant's fee prescribed; and

17 (b) When demanding a hearing, may assert a counterclaim in the form provided by the court.

18 (3) **Except as provided in subsection (4) of this section**, if the amount or value claimed ex-
19 ceeds \$750, the defendant has a constitutional right to a jury trial and may claim that right in a
20 written request to the clerk in the form prescribed by the court, accompanied by payment of the
21 appearance fee required from defendants under ORS 21.160. The request shall designate a mailing
22 address to which a summons and copy of the complaint may be served by mail. Thereafter, the
23 plaintiff's claim will not be limited to the amount stated in the claim, though it must involve the
24 same controversy.

25 (4) **If the defendant is a public body and the plaintiff brings only claims for damage to**
26 **property, the defendant may not request a jury trial.**

27 **SECTION 2.** The amendments to ORS 46.455 by section 1 of this 2017 Act apply only to
28 small claims actions commenced on or after the effective date of this 2017 Act.

29 **SECTION 3.** This 2017 Act being necessary for the immediate preservation of the public
30 peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect
31 on its passage.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

