

# Senate Bill 358

Sponsored by Senator FREDERICK (Pre-session 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**.

Modifies requirements for appearance in small claims department of circuit court or justice court.

## A BILL FOR AN ACT

1  
2 Relating to small claims; creating new provisions; and amending ORS 46.415, 55.020, 55.040 and  
3 55.090.

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

5 **SECTION 1.** ORS 46.415 is amended to read:

6 46.415. (1) The judges of a circuit court shall sit as judges of the small claims department.

7 (2) No formal pleadings other than the claim [*shall be*] **are necessary in the small claims de-**  
8 **partment. A claim or counterclaim must be prosecuted in the name of the real party in in-**  
9 **terest.**

10 (3) The hearing and disposition of all cases **in the small claims department** shall be informal,  
11 the sole object being to dispense justice promptly and economically between the litigants. The  
12 parties shall have the privilege of offering evidence and testimony of witnesses at the hearing. The  
13 judge may informally consult witnesses or otherwise investigate the controversy and give judgment  
14 or make such orders as the judge deems to be right, just and equitable for the disposition of the  
15 controversy.

16 (4) **Notwithstanding ORS 9.320**, no attorney at law or person other than the plaintiff and de-  
17 fendant and their witnesses [*shall*] **may** appear on behalf of any party in **mediation or** litigation in  
18 the small claims department without the consent of the judge of the court.

19 (5) [*Notwithstanding the provisions of ORS 9.320,*] A party that is not a natural person, the state  
20 or any city, county, district or other political subdivision or public corporation in this state, without  
21 appearance by attorney, may appear [*as a party to*] **through an officer or employee of the party**  
22 **in** any action in the small claims department and in any supplementary proceeding in aid of exe-  
23 cution after entry of a small claims judgment. **A party that is not a natural person, the state**  
24 **or any city, county, district or other political subdivision or public corporation in this state**  
25 **may not appear through an agent other than an officer or employee of the party.**

26 (6) **Fully** assigned claims may be prosecuted by an assignee in **the** small claims department to  
27 the same extent they may be prosecuted in any other state court.

28 (7) **When spouses are both parties to a case, one spouse may appear on behalf of both**  
29 **spouses in mediation or litigation in the small claims department with the permission of the**  
30 **other spouse.**

31 **SECTION 2.** ORS 55.020 is amended to read:

**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.

1       55.020. An action in the small claims department shall be commenced by the plaintiff appearing  
2 in person or by [*agent or*] assignee before the court and filing a verified claim in the form prescribed  
3 by the justice of the peace along with the fee prescribed by ORS 51.310 (1)(c).

4       **SECTION 3.** ORS 55.040 is amended to read:

5       55.040. All claims [*shall*] **must** be verified by the real party in interest[, *the agent or assignee*  
6 *of the party*]. **Fully assigned claims may be verified by an assignee.** Any claim may be filed and  
7 prosecuted in the small claims department by [*such agent or*] the assignee of the cause of action  
8 upon which recovery is sought.

9       **SECTION 4.** ORS 55.090 is amended to read:

10       55.090. (1) Except as may otherwise be provided by ORS 55.040, **and notwithstanding ORS**  
11 **9.320**, no attorney at law nor any person other than the plaintiff and defendant shall become in-  
12 volved in or in any manner interfere with the prosecution or defense of the litigation in the de-  
13 partment [*without the consent of the justice of the justice court, nor shall it be necessary to summon*  
14 *witnesses. But*]. The plaintiff and defendant may, **but are not required to**, offer evidence in their  
15 behalf by witnesses appearing at the hearing, and the justice may informally consult witnesses or  
16 otherwise investigate the controversy and give judgment or make such orders as the justice deems  
17 right, just and equitable for the disposition of the controversy.

18       (2) [*Notwithstanding ORS 9.320,*] A party that is not a natural person, state or any city, county,  
19 district or other political subdivision or public corporation in this state may appear [*as a party to*]  
20 **through an officer or employee of the party in** any action in the department without appearance  
21 by attorney. **A party that is not a natural person, the state or any city, county, district or**  
22 **other political subdivision or public corporation in this state may not appear through an**  
23 **agent other than an officer or employee of the party.**

24       **SECTION 5.** The amendments to ORS 46.415, 55.020, 55.040 and 55.090 by sections 1 to 4  
25 of this 2017 Act apply only to actions commenced in the small claims department of a circuit  
26 court or a justice court on or after the effective date of this 2017 Act.

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