

Enrolled House Bill 2463

Introduced and printed pursuant to House Rule 12.00. Presession filed (at the request of House Interim Committee on Judiciary for Oregon State Bar)

CHAPTER

AN ACT

Relating to small claims; creating new provisions; and amending ORS 30.648, 46.445, 46.455, 55.045 and 55.065.

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

SECTION 1. ORS 46.455 is amended to read:

46.455. Within [14] **30** days after the date of service of the notice and claim upon the defendant as provided in ORS 46.445:

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

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

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

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

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

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

(3) If the **total** amount or value claimed, **including identified prejudgment or preaward interest, fees and costs**, exceeds \$750, the defendant has a constitutional right to a jury trial and may claim that right in a written request to the clerk in the form prescribed by the court, accompanied by payment of the appearance fee required from defendants under ORS 21.160. The request shall designate a mailing address to which a summons and copy of the complaint may be served by mail. Thereafter, the plaintiff's claim will not be limited to the amount stated in the claim, though it must involve the same controversy.

SECTION 2. ORS 55.065 is amended to read:

55.065. Within [14] **30** days after the date of service of the notice and claim upon the defendant as provided in ORS 55.045:

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

(a) Paying to the court the amount of the claim plus the amount of the small claims fee and service expenses paid by the plaintiff. The court shall pay to the plaintiff the amounts paid by the defendant.

(b) If the claim is for recovery of specific personal property, delivering the property to the plaintiff and paying to the plaintiff the amount of the small claims fee and service expenses paid by the plaintiff.

- (2) If the defendant denies the claim, the defendant:
- (a) May demand a hearing in the small claims department in a written request to the court in the form prescribed by the court, accompanied by payment of the defendant's fee prescribed; and
 - (b) When demanding a hearing, may assert a counterclaim in the form provided by the court; or
 - (c) If the **total** amount or value claimed, **including identified prejudgment or preaward interest, fees and costs**, exceeds \$750, may demand a jury trial in a written request to the court in the form prescribed by the court, accompanied by payment of the appearance fee prescribed by ORS 51.310 (1)(b) together with the trial fee prescribed by ORS 52.410. The request shall designate a mailing address to which a summons and copy of the complaint may be served by mail. Thereafter, the plaintiff's claim will not be limited to the amount stated in the claim, though it must involve the same controversy.

SECTION 3. ORS 46.445 is amended to read:

46.445. (1) Upon the filing of a claim in the small claims department of a circuit court, the clerk shall issue a notice in the form prescribed by the court.

(2) The notice shall be directed to the defendant, naming the defendant, and shall contain a copy of the claim.

(3) The notice and claim shall be served upon the defendant either in the manner provided for the service of summons and complaint in proceedings in the circuit courts or by certified mail, at the option of the plaintiff. If service by certified mail is attempted, the plaintiff shall mail the notice and claim by certified mail addressed to the defendant at the last-known mailing address of the defendant. The envelope shall be marked with the words "Deliver to Addressee Only" and "Return Receipt Requested." The date of delivery appearing on the return receipt shall be prima facie evidence of the date on which the notice and claim was served upon the defendant. If service by certified mail is not successfully accomplished, the notice and claim shall be served in the manner provided for the service of summons and complaint in proceedings in the circuit courts.

(4) The notice shall include a statement in substantially the following form:

NOTICE TO DEFENDANT:
READ THESE PAPERS CAREFULLY!

Within [14] **30 DAYS** after receiving this notice you **MUST** do ONE of the following things:

Pay the claim plus filing fees and service expenses paid by plaintiff OR

Demand a hearing OR

Demand a jury trial

If you fail to do one of the above things within [14] **30 DAYS** after receiving this notice, then upon written request from the plaintiff the clerk of the court will enter a judgment against you for the amount claimed plus filing fees and service expenses paid by the plaintiff, plus a prevailing party fee.

If you have questions about the small claims court filing procedures after reading this notice, you may contact the clerk of the court; however, the clerk cannot give you legal advice on the claim.

SECTION 4. ORS 55.045 is amended to read:

55.045. (1) Upon the filing of a claim, the court shall issue a notice in the form prescribed by the court.

(2) The notice shall be directed to the defendant, naming the defendant, and shall contain a copy of the claim.

(3) If the amount or value claimed is \$50 or more, the notice and claim shall be served upon the defendant in the manner provided for the service of summons and complaint in proceedings in the circuit courts.

(4) If the amount or value claimed is less than \$50, the notice and claim shall be served upon the defendant either in the manner provided for the service of summons and complaint in proceedings in the circuit courts or by certified mail, at the option of the plaintiff. If service by certified mail is attempted, the court shall mail the notice and claim by certified mail addressed to the defendant at the last-known mailing address of the defendant within the territorial jurisdiction of the court. The envelope shall be marked with the words "Deliver to Addressee Only" and "Return Receipt Requested." The date of delivery appearing on the return receipt shall be prima facie evidence of the date on which the notice and claim was served upon the defendant. If service by certified mail is not successfully accomplished, the notice and claim shall be served in the manner provided for the service of summons and complaint in proceedings in the circuit courts.

(5) The notice shall include a statement in substantially the following form:

**NOTICE TO DEFENDANT:
READ THESE PAPERS CAREFULLY**

Within [14] **30 DAYS** after receiving this notice you **MUST** do ONE of the following things:

Pay the claim plus fees and service expenses paid by plaintiff OR

Demand a hearing OR

Demand a jury trial

If you fail to do one of the above things within [14] **30 DAYS** after receiving this notice, then upon written request from the plaintiff, the court will enter a judgment against you for the amount claimed plus fees and service expenses paid by the plaintiff.

If you have questions about this notice, you should contact the court immediately.

SECTION 5. ORS 30.648 is amended to read:

30.648. (1)(a) An adult in custody who brings an action against a public body in a small claims department must serve the notice and claim and all subsequent filings on the public body. If the public body is the Department of Corrections or another state agency, the adult in custody must also serve the notice and claim and all subsequent filings on the Attorney General.

(b) Notice and claim served under paragraph (a) of this subsection must be served in the manner provided in ORS 46.445 *[except that the statement required under ORS 46.445 (4) must read "30 DAYS" instead of "14 DAYS."]*.

(2) The public body or Attorney General served under subsection (1) of this section must take action as required under ORS 46.455 *[except that the public body or Attorney General must admit or deny the claim within 30 days after the date of service]*.

(3) Notwithstanding ORS 46.405, in an action against a public body brought under this section, the court shall transfer the action to the regular department of the circuit court upon request of the public body or, if the public body is the Department of Corrections or another state agency, or an officer, employee or agent of the Department of Corrections or the state agency, upon request of the public body or the Attorney General.

(4) Notwithstanding ORS 46.415, in an action against a public body brought under this section, if the public body is the Department of Corrections or another state agency, or an officer, employee or agent of the Department of Corrections or the state agency, an attorney or paralegal employed by the Department of Justice may appear and represent the public body.

(5)(a) Notwithstanding ORS 46.475, in an action against a public body brought under this section, notice of intent to apply for an order of default, in the form prescribed by Uniform Trial Court Rule 2.010, must be filed and served on the public body against which an order of default is sought at least 10 days before a court may enter an order of default. If the public body is the Department of Corrections or another state agency, or an officer, employee or agent of the Department of Corrections or the state agency, notice must also be served on the Attorney General.

(b) The court may not enter a default judgment in favor of the adult in custody unless the adult in custody submits to the court proof of service by affidavit of the notice and claim required under subsection (1) of this section and the notice of intent to apply for an order of default required under paragraph (a) of this subsection.

SECTION 6. The amendments to ORS 30.648, 46.445, 46.455, 55.045 and 55.065 by sections 1 to 5 of this 2025 Act apply to claims filed in a small claims department on or after the effective date of this 2025 Act.

Passed by House February 20, 2025

Repassed by House May 19, 2025

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Timothy G. Sekerak, Chief Clerk of House

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Julie Fahey, Speaker of House

Passed by Senate May 6, 2025

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Rob Wagner, President of Senate

Received by Governor:

.....M.,....., 2025

Approved:

.....M.,....., 2025

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2025

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Tobias Read, Secretary of State