

HOUSE BILL No. 2604

By Committee on Judiciary

Requested by Representative Gardner

1-25

1 AN ACT concerning civil procedure for limited actions; relating to the
2 small claims procedure act; increasing the maximum dollar amount of a
3 small claim thereunder; amending K.S.A. 61-2703 and 61-2706 and
4 repealing the existing sections.
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 61-2703 is hereby amended to read as follows: 61-
8 2703. As used in this act:

9 (a) "Small claim" means a claim for the recovery of money or
10 personal property, where the amount claimed or the value of the property
11 sought does not exceed ~~\$4,000~~ \$10,000, exclusive of interest, costs and
12 any damages awarded pursuant to K.S.A. 60-2610, and amendments
13 thereto. In actions of replevin, the verified petition fixing the value of the
14 property shall be determinative of the value of the property for
15 jurisdictional purposes. A small claim shall not include:

- 16 (1) An assigned claim;
17 (2) a claim based on an obligation or indebtedness allegedly owed to
18 a person other than the person filing the claim, where the person filing the
19 claim is not a full-time employee or officer of the person to whom the
20 obligation or indebtedness is allegedly owed; or
21 (3) a claim obtained through subrogation.
22 (b) "Person" means an individual, partnership, limited liability
23 company, corporation, fiduciary, joint venture, society, organization or
24 other association of persons.

25 Sec. 2. K.S.A. 61-2706 is hereby amended to read as follows: 61-
26 2706. (a) Whenever a plaintiff demands judgment beyond the scope of the
27 small claims jurisdiction of the court, the court shall ~~either~~:

- 28 (1) Dismiss the action without prejudice at the cost of the plaintiff;
29 (2) allow the plaintiff to amend the plaintiff's pleadings and service of
30 process to bring the demand for judgment within the scope of the court's
31 small claims jurisdiction and thereby waive the right to recover any
32 excess, assessing the costs accrued to the plaintiff; or
33 (3) if the plaintiff's demand for judgment is within the scope of the
34 court's general jurisdiction, allow the plaintiff to amend the plaintiff's
35 pleadings and service of process so as to commence an action in such court

1 in compliance with K.S.A. 61-1703, and amendments thereto, assessing
2 the costs accrued to the plaintiff.

3 (b) Whenever a defendant asserts a claim beyond the scope of the
4 court's small claims jurisdiction, but within the scope of the court's general
5 jurisdiction, the court may determine the validity of defendant's entire
6 claim. If the court refuses to determine the entirety of any such claim, the
7 court must allow the defendant to *make*:

8 (1) ~~Make~~ No demand for judgment and reserve the right to pursue the
9 defendant's entire claim in a court of competent jurisdiction;

10 (2) ~~make~~ demand for judgment of that portion of the claim not
11 exceeding ~~\$4,000~~ \$10,000, plus interest, costs and any damages awarded
12 pursuant to K.S.A. 60-2610, and amendments thereto, and reserve the right
13 to bring an action in a court of competent jurisdiction for any amount in
14 excess thereof; or

15 (3) ~~make~~ demand for judgment of that portion of the claim not
16 exceeding ~~\$4,000~~ \$10,000, plus interest, costs and any damages awarded
17 pursuant to K.S.A. 60-2610, and amendments thereto, and waive the right
18 to recover any excess.

19 Sec. 3. K.S.A. 61-2703 and 61-2706 are hereby repealed.

20 Sec. 4. This act shall take effect and be in force from and after its
21 publication in the statute book.