

**SMALL CLAIMS AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karen Kwan**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE****General Description:**

This bill modifies provisions regarding a small claims court.

**Highlighted Provisions:**

This bill:

- ▶ modifies a provision regarding a motor vehicle accident; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78A-8-102**, as last amended by Laws of Utah 2013, Chapter 368

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*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **78A-8-102** is amended to read:

**78A-8-102. Small claims -- Defined -- Counsel not necessary -- Removal from district court -- Deferring multiple claims of one plaintiff -- Supreme Court to govern procedures.**

(1) A small claims action is a civil action:



(a) for the recovery of money [~~where~~] when:

(i) the amount claimed does not exceed \$10,000 including attorney fees, but exclusive of court costs and interest; and

(ii) the defendant resides or the action of indebtedness was incurred within the jurisdiction of the court in which the action is to be maintained; or

(b) involving interpleader under Rule 22 of the Utah Rules of Civil Procedure, in which the amount claimed does not exceed \$10,000 including attorney fees, but exclusive of court costs and interest.

(2) (a) A defendant in an action filed in the district court that meets the requirement of Subsection (1)(a)(i) may remove, if agreed to by the plaintiff, the action to a small claims court within the same district by:

(i) giving notice, including the small claims filing number, to the district court of removal during the time afforded for a responsive pleading; and

(ii) paying the applicable small claims filing fee.

(b) [~~No~~] A filing fee may not be charged to a plaintiff to appeal a judgment on an action removed under Subsection (2)(a) to the district court where the action was originally filed.

(3) The judgment in a small claims action may not exceed \$10,000 including attorney fees, but exclusive of court costs and interest.

(4) [~~Counter claims~~] A counter claim may be maintained in a small claims [~~actions~~] action if the counter claim arises out of the transaction or occurrence which is the subject matter of the plaintiff's claim. A counter claim may not be raised for the first time in the trial de novo of the small claims action.

(5) [~~Claims~~] A claim involving property damage [~~to~~] from a motor vehicle accident may be maintained in a small claims [~~actions~~] action, and any removal or appeal [~~thereof~~] of the small claims action, without limiting the ability of a plaintiff to make a claim for bodily injury against the same defendant in a separate legal action. In the event that a property damage claim is brought as a small claims action:

(a) [~~any~~] a liability decision in an original small claims action or appeal [~~thereof~~] of the original small claims action is not binding in [~~any~~] a separate legal action for bodily injury; and

(b) ~~[no]~~ an additional property damage ~~[claims can]~~ claim may not be brought in ~~[any]~~ a separate legal action for bodily injury.

(6) (a) With or without counsel, persons or corporations may litigate actions on behalf of themselves:

(i) in person; or

(ii) through authorized employees.

(b) A person or corporation may be represented in an action by an individual who is not an employee of the person or corporation and is not licensed to practice law only in accordance with the Utah ~~[rules of small claims procedure as promulgated]~~ Rules of Small Claims Procedure as made by the Supreme Court.

(7) If a person or corporation other than a municipality or a political subdivision of the state files multiple small claims in any one court, the clerk or judge of the court may remove all but the initial claim from the court's calendar in order to dispose of all other small claims matters. ~~[Claims]~~ A claim so removed shall be rescheduled as permitted by the court's calendar.

(8) ~~[Small claims matters]~~ A small claims matter shall be managed in accordance with simplified rules of procedure and evidence ~~[promulgated]~~ made by the Supreme Court.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**