TITLE 5

DISTRICT COURTS AND PROCEEDINGS THEREIN

Chapter 46. District Courts and Proceedings Therein

Chapter 46

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District Courts and Proceedings Therein

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DISTRICT COURTS GENERALLY

46.010 Multnomah County District Court. (1) In Multnomah County there shall be a court that shall be styled "The District Court of the State of Oregon, for the County of Multnomah."

(2) The court shall have 14 judges, one of whom shall hold court at Gresham, Multnomah County, as directed by the Chief Justice of the Supreme Court but in no event less than one day a week. The territorial limits of the court and its civil and criminal jurisdiction shall be as otherwise provided by law for district courts. All proceedings resulting from alleged state traffic offenses or misdemeanors occurring east of 122nd Avenue extended to the north and south boundaries of Multnomah County shall be conducted in the district court in Gresham unless the accused requests trial in Portland.

(3) Multnomah County shall provide facilities in the City of Gresham for a district court judge to hold court. [Amended by 1961 c.724 §16; 1965 c.510 §13; 1965 c.568 §1; 1967 c.575 §1; 1971 c.633 §4; 1973 c.645 §1; 1977 c.387 §1; 1981 c.759 §11]

46.019 District Courts for Union and Wallowa; Crook and Jefferson; Morrow and Umatilla; and Tillamook Counties. (1) There shall be a court styled "The District Court of the State of Oregon, for the Counties of Union and Wallowa." The court shall be considered to be located in the cities that are the county seats of Union and Wallowa Counties. The court shall have one judge, who shall hold court in the City of Enterprise in Wallowa County at least one day a week and in the City of La Grande in Union County the rest of the week.

(2) There shall be a court styled "The District Court of the State of Oregon, for the Counties of Crook and Jefferson." The court shall be considered to be located in the cities that are the county seats of Crook and Jefferson Counties. The court shall have one judge.

(3) There shall be a court styled "The District Court of the State of Oregon, for the Counties of Morrow and Umatilla." The court shall be considered to be located in the cities that are the county seats of Morrow and Umatilla Counties and in the City of Hermiston in Umatilla County. The court shall have two judges. A judge shall hold court in the City of Heppner in Morrow County at least one day a week. Notwithstanding ORS 51.020, organization of the court under this subsection does not affect the justice's court in, or the justice of the peace district including, the City of Heppner.

(4) There shall be a court styled "The District Court of the State of Oregon, for the County of Tillamook." The court shall be located in the city that is the county seat of Tillamook County. The court shall have one judge. Notwithstanding ORS 51.020, organization of the court under this subsection does not prohibit or otherwise affect a justice's court in, or a justice of the peace district including, the city that is the county seat of Tillamook County. [1975 c.327 §§2, 4; 1979 c.568 §1; 1983 c.763 §33; 1983 c.765 §1; 1987 c.762 §3]

46.020 [Amended by 1957 c.405 §1; 1961 c.724 §17; repealed by 1965 c.510 §24]

46.025 District courts in other counties; number of judges. (1) Subject to ORS 46.026, in the following cities there shall be a court that shall be styled "The District Court of the State of Oregon, for the County of_____" (insert the name of the county in which the court is located):

(a) The cities that are the county seats of Benton, Clackamas, Clatsop, Columbia, Curry, Deschutes, Douglas, Hood River, Jackson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Malheur, Marion, Polk, Wasco, Washington and Yamhill Counties.

(b) The city that is the county seat of Coos County and the City of North Bend, or any successor city including the City of North Bend, in Coos County. The court shall be considered to be located in both cities.

(c) The city that is the county seat of a county for which a county charter providing for the establishment and organization of such district court in such city is adopted under ORS 203.710 to 203.770.

(2) The court for each county described in this section shall have one judge, except that:

(a) The court for Clackamas County shall have three judges.

(b) The court for Coos County shall have two judges.

(c) The court for Deschutes County shall have two judges.

(d) The court for Douglas County shall have two judges.

(e) The court for Jackson County shall have three judges.

(f) The court for Josephine County shall have two judges.

(g) The court for Klamath County shall have two judges.

(h) The court for Lane County shall have five judges.

(i) The court for Linn County shall have two judges.

(j) The court for Marion County shall have five judges.

(k) The court for Washington County shall have five judges. [Amended by 1953 c.563 §7; 1957 c.726 §1; 1959 c.559 §3; 1961 c.724 §18; 1965 c.510

§14; 1965 c.568 §4; 1967 c.623 §1; 1969 c.333 §1; 1971 c.640 §3; 1975 c.327 §1; 1977 c.385 §1; 1979 c.568 §12; 1981 c.253 §1; 1981 c.759 §13; 1983 c.763 §34; 1989 c.1021 §5; 1991 c.458 §§3,7]

46.026 Postponement of establishment of certain district courts; selection of judges of such courts. (1) The establishment and organization of a district court in a city under ORS 46.025 is postponed:

(a) Until the expiration of the elective or appointive term of the justice of the peace in office in the city at the time it first meets the requirements of ORS 46.025, unless the justice of the peace is qualified to be a judge of the district court; or

(b) If the office of the justice of the peace in the city at the time it first meets the requirements of ORS 46.025 is vacant or thereafter becomes vacant for any reason, or if the county court petitions the Governor to appoint a judge of the district court prior to the expiration of the elective or appointive term of the justice of the peace in office in the city at the time it first meets the requirements of ORS 46.025, until a person qualified to be a judge of the district court is appointed by the Governor and qualifies. In the event of such a vacancy, or in the event the county court petitions the Governor to appoint a judge of the district court prior to the expiration of the elective or appointive term of the justice of the peace, and notwithstanding the provisions of ORS 51.260, the Governor, as soon as possible, shall appoint a qualified person to be a judge of the district court, who shall qualify as soon as possible after appointment and who shall serve until a successor is elected and qualified under subsection (3) of this section.

(2) If the establishment of a district court is postponed under subsection (1)(a) of this section, when the court is established a qualified person to be a judge of the district court shall be nominated and elected in the manner provided by law for district court judges at the primary and general elections next preceding the date of the expiration of the elective or appointive term of the justice of the peace in office in the city at the time it first meets the requirements of ORS 46.025.

(3) A person qualified to be a judge of the district court to succeed a person appointed under subsection (1)(b) of this section shall be nominated and elected in the manner provided by law for district court judges at the primary and general elections next succeeding the appointment.

(4) If a judge of the district court is appointed by the Governor under subsection (1)(b) of this section upon petition by the county court, the district court is established and organized, but the justice district in the county seat is not abolished until the expiration of the elective or appointive term of the justice of the peace or the office of the justice of the peace becomes vacant for any reason prior to that expiration; and the district court has concurrent jurisdiction with the justice's court of crimes and actions described in ORS 51.040 to 51.100 until that abolishment. [1961 c.724 §19; 1963 c.614 §1]

46.028 [1961 c.724 §20; repealed by 1965 c.510 §24]

46.030 Territorial limits of district courts. The territorial limits of a district court, over which the court shall have jurisdiction, shall be coextensive with the boundaries of the county or counties in which the court is located. However, in civil cases the territorial jurisdiction of the court shall be the same as that of a circuit court, subject to the same conditions and restrictions as apply to circuit courts and subject to the laws relating to venue of actions. [Amended by 1953 c.112 §2, 1979 c.568 §6]

46.040 Criminal jurisdiction; concurrent jurisdiction with circuit and municipal courts. District courts shall have the same criminal and quasi-criminal jurisdiction as justices' courts, and shall have concurrent jurisdiction with the circuit courts of all misdemeanors committed or triable in their respective counties where the punishment prescribed does not exceed one year's imprisonment in the county jail or a fine of $3,000, or both such fine and imprisonment. District courts shall have concurrent jurisdiction with municipal courts of all violations of the charter and ordinances of any city wholly or in part within their respective counties, committed or triable within their respective counties. [Amended by 1963 c.513 §2; 1971 c.743 §311; 1973 c.645 §2; 1983 c.673 §1]

46.045 Jurisdiction over violations of Portland charter and ordinances; disposition of moneys; hearings officers. (1) The district court for a county within the boundaries of which there is situated the largest part of a city having a population of more than 300,000 shall have all judicial jurisdiction, authority, powers, functions and duties of the municipal court of each such city and the judges thereof with respect to all violations of the charter and ordinances of each such city.

(2) All fees, fines, bail forfeitures and other moneys collected and received by a district court in matters, causes and proceedings with respect to all violations over which such district court is granted judicial jurisdiction by subsection (1) of this section shall be collected, handled and disposed of by the clerk of such district court as otherwise provided by law for moneys collected and received by such district court.

(3) Subsection (1) of this section does not preclude the city from employing one or more quasi-judicial hearings officers empowered to hold hearings concerning violations of the charter, ordinances, rules and regulations of the city, to adopt rules and regulations relating to the conduct of the hearings process and to impose civil penalties and grant other relief as may be necessary to enforce and obtain compliance with the charter, ordinances, rules and regulations of the city. The jurisdiction and authority of a hearings officer shall not include any traffic or parking offense. The city may enforce any order of a hearings officer by a civil action in a court of appropriate jurisdiction. [1971 c.633 §2; 1985 c.750 §1]

46.047 Application of state statutes to municipal ordinance. When an offense defined by municipal ordinance is tried in district court, it shall be subject to the same statutes and procedures that govern the trial and appeal of a like offense defined by a statute of this state. [1975 c.611 §15]

46.050 Certain district judges as committing magistrates. One of the judges of a district court having two or more judges shall sit as committing magistrate as the judges agree among themselves. [Amended by 1957 c.405 §3; 1961 c.724 §21]

46.060 Civil jurisdiction generally. (1) Except as provided in subsection (2) of this section, the district courts shall have exclusive jurisdiction in the following cases:

(a) For the recovery of money or damages only when the amount claimed does not exceed $10,000. When, in such a case arising out of contract, the ends of justice demand that an account be taken or that the contract be reformed or canceled, the district court shall have jurisdiction to decree such accounting, reformation or cancellation.

(b) For the recovery of specific personal property when the value of the property claimed and the damages for the detention do not exceed $10,000.

(c) For the recovery of any penalty or forfeiture, whether given by statute or arising out of contract, not exceeding $10,000.

(d) To give judgment without trial upon the confession of the defendant for any of the causes of action specified in this section, except for a penalty or forfeiture imposed by statute.

(e) To hear and determine actions of forcible entry and detainer.

(f) To enforce, marshal and foreclose liens upon personal property where the amount claimed for such liens does not exceed $10,000, and to render personal judgment therein in favor of any party.

(g) Actions and proceedings of interpleader and in the nature thereof, when the amount of money or the value of the property involved does not exceed $10,000.

(h) Actions and proceedings, whether legal or equitable, to preserve the property or rights of any party to an action of which the court has jurisdiction, and to enforce the collection of its own judgments, including all actions and proceedings in the nature of creditors' bills, and, in aid of execution, to subject the interest of a judgment debtor in personal property to the payment of such judgment. District courts shall not have jurisdiction to appoint receivers.

(i) Actions or suits for injunctive relief under ORS 90.100 to 90.940 when the amount of any damages claimed does not exceed $10,000.

(2) The jurisdiction granted the district court in subsection (1) of this section does not affect the jurisdiction of any justice court, and in a county with no district court, the circuit court has jurisdiction to hear all matters otherwise assigned to the district court.

(3) The district court shall have jurisdiction to hear cases arising under ORS 166.274.

(4) Whenever an action or proceeding is brought in a district court, the court shall have jurisdiction to hear and determine, preserve and enforce all rights involved therein, including all cases in equity when pleaded as defensive matter, and to exercise all legal and equitable remedies necessary or proper for complete determination of the rights of the parties, subject to the limitations imposed by this section.

(5) For purposes of this section, the amount claimed, value of property, damages or any amount in controversy does not include any amount claimed as costs and disbursements or attorney fees as defined by ORCP 68 A. [Amended by 1957 c.661 §1; 1965 c.495 §1; 1975 c.611 §18; 1983 c.149 §1; 1985 c.342 §1; 1985 c.496 §28; 1985 c.588 §3a; 1987 c.714 §8; 1989 c.839 §33]

46.063 [1975 c.611 §10; repealed by 1987 c.714 §10]

46.064 Transfer of action from district court to circuit court; appeal; exceptions. (1) When it appears to any party that a civil action commenced in a district court involves any claim that is not within the jurisdiction of the district court but is within the jurisdiction of the circuit court, that party shall file a motion requesting transfer and the district court shall not dismiss the action but shall order transfer of the entire action to the circuit court. If no motion is made by a party, the court shall transfer the case on its own motion if the court is aware that a claim is outside the jurisdiction of the court.

(2) In any civil action commenced in a district court a defendant may plead a counterclaim or cross-claim in excess of the jurisdiction of the court. If a defendant pleads a counterclaim or cross-claim in excess of the jurisdiction of the district court, the court shall not dismiss the action but shall, on motion of a party or if no motion is made by a party, on its own motion, order transfer of the entire action to the circuit court. In any civil action commenced in a district court wherein the amount claimed by the plaintiff is not in excess of the jurisdiction of the court and the amount claimed by a defendant by way of counterclaim or cross-claim is not in excess of the jurisdiction of the court, the court shall have jurisdiction of the action notwithstanding that the combined amount of the claim, counterclaim and cross-claim exceeds $10,000.

(3) A motion to transfer made by a party or an order to transfer made by a district court on its own motion under this section shall be made not less than 14 days before the date set for trial of the action in the court. If no party has made a motion to transfer and the court is otherwise unaware that a claim is outside the jurisdiction of the court and as a result the court has failed to order a transfer of the case, all objections that jurisdiction is not in the district court but is in the circuit court shall be considered waived, and a judgment of the district court in the action shall not be void or voidable or subject to direct or collateral attack on the ground that jurisdiction was not in the district court but was in the circuit court. However, nothing in this section shall be construed to allow a party to agree to waive the jurisdictional limits of the court where the party is aware more than 14 days in advance of the date set for trial of the action that a claim is not within the jurisdiction of the court.

(4) An order of a district court to transfer under this section may be reviewed on appeal of a judgment of the circuit court in the action by any party who did not make or agree to the motion to transfer. An order of a district court denying a motion of a party to transfer under this section may be reviewed on appeal of a judgment of the district court in the action by the party making the motion. No error in the ruling or order of district court on a motion to transfer under this section shall cause reversal of a judgment unless the error substantially affects the rights of a party and requires a new trial. If an appellate court reverses a judgment of a district or circuit court because of error by a district court in the ruling or order on a motion to transfer under this section, the appellate court shall direct that the district or circuit court transfer the action to the proper court.

(5) This section does not apply to any proceedings under ORS chapter 107 or 109 or to probate, conservatorship, guardianship, change of name or juvenile proceedings. [1987 c.714 §2]

46.065 [1965 c.495 §3; repealed by 1975 c.611 §24]

46.070 [Amended by 1965 c.495 §2; 1975 c.611 §19; 1985 c.240 §1; 1985 c.342 §2; 1985 c.496 §29; repealed by 1987 c.714 §10]

46.075 Procedure when case transferred to circuit court; additional pleadings; fees and costs. (1) Within 10 days after a district court orders transfer of an action to the circuit court under ORS 46.064 the clerk of the district court shall file with the clerk of the circuit court a transcript of the action including all the material entries in the records of the district court and all of the original papers relating to the action. Thereupon the district court shall proceed no further with the action. The action shall be considered transferred to the circuit court which shall then have jurisdiction to try and determine the action.

(2) The responding party shall have 10 days after the final date allowed for the transcript and original papers to be filed in the circuit court within which to plead further. If the district court clerk fails to file the transcript and original papers within the time specified, the presiding judge of the circuit court may order that clerk to do so within a specified time.

(3) Except as provided in ORS 46.461, when the district court orders the transfer of an action to the circuit court:

(a) The plaintiff, in addition to the fee paid to the district court clerk as required by ORS 46.221 (1)(a), shall pay to the circuit court clerk an amount equal to the difference between that fee and the filing fee required of a plaintiff by ORS 21.110.

(b) The defendant, in addition to the fee paid to the district court clerk as required by ORS 46.221 (1)(b), shall pay to the circuit court clerk an amount equal to the difference between that fee and the filing fee required of a defendant by ORS 21.110.

(c) The party pleading an original claim, counterclaim or cross-claim in excess of the jurisdiction of the district court shall pay to the district court clerk the transfer fee required by ORS 46.221 (1)(h).

(4) If the moving party prevails in the circuit court, the required transfer fee paid by that party may be taxed as costs and disbursements. [1965 c.495 §4; 1985 c.496 §30; 1985 c.540 §13; 1987 c.714 §3; 1991 c.790 §6]

46.080 Jurisdiction in ancillary, supplemental and incidental proceedings. In

civil actions the district courts shall have jurisdiction, as in like cases in the circuit courts, in every ancillary, incidental and supplemental proceeding, before and after judgment, including the provisional remedies of attachment and delivery of personal property claimed in the action as well as interpleader, trial of rights of personal property, and exemption, aid of execution, revival and renewal of judgment, the direction of references, and the taking of accounts where necessary to preserve the property or rights of any party to an action of which the district court has jurisdiction. All affidavits, orders and undertakings for such provisional, ancillary or supplemental proceedings are to be filed with the clerk of the district court, and such process is to be issued by the clerk and may be made returnable before the judge of the court, or, where the court has more than one judge, before any of the judges. Supplemental process against the personal property of the judgment debtor may be issued by the clerk of the district court to the sheriff of any county in this state. A writ of attachment or an order for the delivery of personal property claimed in the action may be served and executed by any person authorized to serve a summons. [Amended by 1957 c.661 §2; 1981 c.898 §39]

46.082 Real property not subject to writ of attachment. Real property or any interest therein cannot be attached upon a writ of attachment in a civil action in a district court. [1977 c.876 §5]

46.084 When title to real property not affected by action. (1) Except as provided in subsection (2) of this section, while the title to real property may be controverted or questioned in an action in district court, the judgment in the action shall in no way affect or determine title between the parties or otherwise.

(2) In an action in a district court involving title to real property and in which objections to the jurisdiction of the court are considered waived as provided in ORS 46.064 (3), a judgment of the court that would affect or determine title to the real property and that is docketed in the judgment docket of the circuit court shall, from the time of that docketing, affect or determine title to the real property as if it were a judgment of the circuit court where it is docketed. [1977 c.876 §6; 1987 c.714 §7]

46.090 [Amended by 1955 c.664 §1; 1957 c.661 §3; repealed by 1977 c.876 §12]

46.092 Transfer of certain judicial jurisdiction of certain county courts to district courts. All judicial jurisdiction, authority, powers, functions and duties of the county courts and the judges thereof, except juvenile court jurisdiction, authority, powers, functions and duties and the jurisdiction, authority, powers, functions and duties exercisable in the transaction of county business, are transferred to the district courts and the judges thereof:

(1) In Benton, Clatsop, Curry, Deschutes, Hood River, Lincoln, Linn, Polk, Umatilla, Wasco, Washington and Yamhill Counties.

(2) In any county for which a county charter providing for such transfer is adopted under ORS 203.710 to 203.770, to the extent that the judicial jurisdiction, authority, powers, functions and duties were not previously transferred as provided by law. [1955 c.540 §1; 1957 c.403 §1; 1965 c.510 §15; 1967 c.534 §12; 1969 c.591 §272]

46.093 [1963 c.512 §2; repealed by 1965 c.510 §24]

46.094 Transfer of pending matters. All matters, causes and proceedings relating to such jurisdiction pending in the county court when jurisdiction is transferred to the district court under ORS 46.092 are transferred to the district court. [1955 c.540 §2; 1957 c.403 §2]

46.096 Application of laws governing county courts to district courts exercising jurisdiction formerly vested in county courts. The district courts and the judges thereof to which jurisdiction is transferred under ORS 46.092 shall be governed by the existing laws relating to the transferred jurisdiction, in so far as they may be applicable, as though the district courts and judges thereof had originally been referred to in such existing laws. [1955 c.540 §3; 1957 c.403 §3]

46.098 [1955 c.540 §4; 1957 c.403 §4; repealed by 1961 c.406 §2]

46.099 Circuit court judge acting as judge of district court. In case of the absence or incapacity, including voluntary disqualification, of a judge of a district court, any judge of the circuit court for the county in which the district court is located may exercise the powers and duties of a judge of the district court for the county. [1961 c.406 §1; 1969 c.96 §1]

46.100 Commencement, prosecution and enforcement of civil actions; return of process. Unless otherwise provided in this chapter, civil actions in district courts shall be commenced and prosecuted to final determination and judgment enforced or renewed therein in the manner provided for similar actions in the circuit courts. Process issued by the clerk of the district court is returnable to the clerk or to the judge or judges of the district court. [Amended by 1957 c.661 §4; 1969 c.438 §1]

46.110 [Amended by 1967 c.391 §1; repealed by 1979 c.284 §199]

46.120 [Amended by 1953 c.479 §4; 1973 c.827 §9; repealed by 1977 c.877 §17]

46.130 Process returnable before presiding judge and authority of other judges in counties having two or more district judges. In a district court having two or more judges original process is returnable and the party summoned shall appear before the presiding judge; but any judge of the district court may hear and determine any action or proceeding instituted in the court which may be assigned or transferred to the judge or any motion, application or issue therein, and may make any necessary and proper orders therein. [Amended by 1957 c.405 §4; 1961 c.724 §22]

46.140 [Repealed by 1961 c.468 §1 (46.141 enacted in lieu of 46.140)]

46.141 Disqualification of judges. Judges of a district court may be disqualified for like reasons, upon like procedure and with like results and provision for obtaining another judge as those which apply to judges of circuit court under the provisions of ORS 14.210 to 14.270. [1961 c.468 §2 (enacted in lieu of 46.140)]

46.150 Findings and conclusions. In cases tried without a jury by a district court, the court shall not be required to make any written findings of fact and conclusions of law where the matter involved is $50 or less, exclusive of interest and costs; and, in all other cases, written findings of fact and conclusions of law shall be deemed to be waived unless they shall be expressly requested by one of the parties at the time of the trial. [Amended by 1969 c.96 §2]

46.155 [1975 c.611 §§12, 13, 14; repealed by 1979 c.284 §199]

46.160 [Repealed by 1979 c.284 §199]

46.170 [Amended by 1953 c.398 §2; 1961 c.705 §1; repealed by 1965 c.510 §24]

46.175 [1961 c 705 §3; 1965 c.510 §16; 1971 c 628 §1; 1979 c.113 §1; repealed by 1981 s.s. c.3 §141]

46.180 Juries in district courts generally. (1) Except as otherwise provided in ORS 46.455, in the district court a jury may be demanded in a civil or criminal proceeding upon:

(a) Notice to the adverse party; and

(b) Written application to the clerk of the court, and payment in a civil proceeding of the amount of the jury trial fee for the first day of trial, not later than five days before trial.

(2) A jury in a district court shall consist of six jurors. Jurors shall be subject to all applicable laws relating to jurors in the circuit court. Jurors required in proceedings in the district court for Multnomah County holding court in the City of Gresham as provided in ORS 46.010 may be selected from names of persons on the master jury list who reside east of 122nd Avenue extended to the north and south boundaries of Multnomah County. [Amended by 1957 c.594 §3; 1961 c.705 §2; 1965 c.510 §17; 1971 c.628 §2; 1977 c.519 §3; 1981 s.s. c.3 §61; 1985 c.496 §12; 1985 c.703 §21a]

46.190 Challenges of jurors. In civil actions, each party is entitled to take challenges for cause, and shall be entitled to two peremptory challenges and no more. When there are two or more parties plaintiff or defendant they must join in the challenge or it cannot be taken. The manner in which challenges may be taken shall be the same as provided for in the circuit court.

46.200 [Amended by 1961 c.446 §2; 1969 c.96 §3; 1971 c.565 §16; repealed by 1975 c.611 §24]

46.210 Witness fees; costs and disbursements. In district courts the amount of witness fees shall be the same as in circuit courts. Costs and disbursements shall be allowed the prevailing party in all actions and proceedings. The amount of costs shall be the same as in circuit courts and the amount of disbursements shall be the same as in circuit courts except where otherwise provided in this chapter. Costs and disbursements shall be taxed in the manner provided by law for the allowance and taxation of costs and disbursements in circuit courts. [Amended by 1955 c.459 §1]

46.220 [Repealed by 1953 c.393 §3]

46.221 Fees; surcharge for dispute resolution programs. (1) In the district court there shall be charged and collected in civil cases by the clerk of the court the following fees for the following purposes and services:

(a) Appearance for plaintiff or appellant, $48.

(b) Appearance for defendant or respondent appearing separately or for defendants or respondents appearing jointly, $24.

(c) Trial fee, for a trial on the merits without a jury, $15 for each full or partial day of the trial, to be collected and considered as costs and disbursements as provided in ORS 21.270 for the trial fee in the circuit court.

(d) Jury trial fee, for a trial by jury, $50 for each full or partial day of the trial, to be collected and considered as costs and disbursements as provided in ORS 21.270 for the jury trial fee in the circuit court.

(e) Hearing fees, other than in small claims department, $10 or $25 for a reported hearing, to be collected and considered as costs and disbursements as provided in ORS 21.275 for hearing fees for reported hearings in the circuit court. For purposes of the application of ORS 21.275, failure of a party to request that hearing be reported constitutes a waiver of reporting by the party. There is no hearing fee under this paragraph for a hearing not reported.

(f) In small claims department, plaintiff filing a claim, $22 when the amount or value claimed does not exceed $1,500, and $48 when the amount or value claimed exceeds $1,500; and defendant demanding a hearing, $14.50 when the amount or value claimed by plaintiff does not exceed $1,500, and $24 when the amount or value claimed by plaintiff exceeds $1,500.

(g) Transcript of judgment in the format provided in ORCP 70 A from small claims department, $4.

(h) Transfer of cause to circuit court, or transfer of case from small claims department to district court on counterclaim, $8.

(2) Except as otherwise provided in this section, fees provided for in this section shall be collected in advance. No paper constituting an appearance referred to in subsection (1)(a) or (b) of this section and no claim or demand referred to in subsection (1)(f) of this section shall be deemed filed unless the required fee is paid by the filing party.

(3) In addition to the fees charged under subsection (1)(a) and (b) of this section, the clerk of the court shall collect a surcharge at the time of filing an appearance by the plaintiff or the defendant in the district court of any civil action, suit or proceeding, including appeals and actions brought pursuant to ORS 105.110 or 105.112, but not including domestic relations, probate, conservatorship, guardianship, adoption or change of name. The amount of the surcharge shall be $5. The surcharge shall be used by the Dispute Resolution Commission to establish community dispute resolution programs under ORS 36.100 to 36.175 and to carry out the duties of the commission under ORS 36.100 to 36.175 and 36.180 to 36.210. The surcharges shall be deposited by the State Court Administrator into the State Treasury to the credit of the Dispute Resolution Account.

(4) The surcharge imposed under subsection (3) of this section shall be collected in any district court action brought under ORS 105.110 or 105.112 when the district court has jurisdiction over the matter. [1953 c.393 §1; 1965 c.510 §18; 1965 c.619 §22; 1971 c.621 §8; 1973 c.381 §2; 1975 c.88 §6; 1975 c.327 §6; 1975 c.607 §11; 1977 c.875 §1; 1979 c.833 §12; 1981 c.898 §40; 1981 s.s. c.3 §92; 1981 s.s. c.3 §93; 1983 c.763 §41; 1985 c.342 §25; 1985 c.496 §8; 1987 c.725 §5; 1989 c.718 §17; 1991 c.538 §5; 1991 c.790 §5]

46.223 Fees on appeal to district court from justice or municipal court in certain actions; waiver. (1) In an appeal to a district court from a justice's court or municipal court in an action for commission of a state violation or infraction or an action for violation of a city charter or ordinance, but not in an action for commission of a state crime:

(a) The appearance, trial and law library fees required by ORS 21.350 and 46.221 are required of the appellant and respondent.

(b) The legal aid fee required by ORS 21.485 is required of the appellant.

(2) Payment of fees required by subsection (1) of this section is subject to ORS 20.140.

(3) Fees required by subsection (1) of this section may be waived or deferred by a judge of the district court for the reason and in the manner provided in ORS 21.605. [1985 c.342 §29]

46.230 [Amended by 1965 c.510 §19; repealed by 1965 c.619 §39]

46.240 [Amended by 1961 c.563 §3; 1971 c.621 §9; repealed by 1973 c.381 §8]

46.250 Appeal to Court of Appeals. (1) Any party to a judgment in a civil action or proceeding, including those relating to a traffic infraction, in a district court, other than a judgment given by confession or for want of an answer or a judgment in the small claims department, may appeal therefrom to the Court of Appeals. The plaintiff may appeal from a judgment given by confession or for want of an answer where the judgment is not in accordance with the relief demanded in the complaint. Except for a traffic infraction case, an appeal may be taken only when the amount of money or the value of the property involved, exclusive of costs and disbursements, is more than $250.

(2) Immediately upon service of the copy of the notice of appeal on the district court reporter, the reporter shall authenticate and deposit the transcript with the clerk of the district court.

(3) Except as otherwise required by this chapter, an appeal taken from district court shall be in accordance with and subject to the provisions of ORS chapter 19. [Amended by 1975 c.611 §20; 1977 c.416 §7; 1979 c.562 §34; 1985 c.734 §16]

46.253 [1975 c.611 §5; repealed by 1985 c.734 §20]

46.255 [1975 c.611 §6; 1981 c.178 §3; repealed by 1985 c.734 §20]

46.260 [Amended by 1969 c.96 §4; repealed by 1977 c.290 §5]

46.265 Appeal to Supreme Court from Court of Appeals. A party aggrieved by a final decision of the Court of Appeals in a case from the district court may petition the Supreme Court for review of that decision in the manner provided for petitions of review. [1975 c.611 §7]

46.270 Dismissal of civil cases; notice required. The clerk of every district court shall mail a notice to each of the attorneys of record in every civil action, suit or proceeding in their respective courts in which no proceedings have been had or papers filed for a period of more than one year, unless

the court has sent an earlier notice on its own motion. The notice shall state that each such case will be dismissed by the court for want of prosecution 60 days from the date of mailing the notice, unless, on or before the expiration of the 60 days, application, either oral or written, be made to the court and good cause shown why it should be continued as a pending case. If such application is not made or good cause is not shown, the court shall dismiss each such case. Nothing contained in this section shall be construed to prevent the dismissing at any time, for want of prosecution, of any suit, action or proceeding upon motion of any party thereto. [Amended by 1971 c.224 §2]

46.274 Filing and docketing transcript of judgment in circuit court; filing fee. When a judgment is given in a district court in favor of anyone for the sum of $10 or more, exclusive of costs or disbursements, the party in whose favor the judgment is given may at any time when the judgment is enforceable, by paying a fee of $5, file with the clerk of the circuit court for the county wherein the judgment is given a certified transcript of the judgment as docketed in the district court judgment docket. Thereupon the clerk shall docket in the judgment docket of the circuit court the judgment given in the district court. [1955 c.664 §2; 1965 c.619 §23; 1971 c.621 §10; 1975 c.607 §12; 1979 c.833 §13; 1981 c.835 §3; 1981 s.s. c.3 §32; 1985 c.540 §15]

46.275 [1977 c.876 §7; repealed by 1983 c.405 §5]

46.276 Lien created by docketing or recording; extension by renewal. (1) From the time of docketing in the judgment docket of the circuit court in the county wherein the judgment of the district court was rendered, the judgment shall be a lien upon the real property of the defendant as provided in ORS 18.320 and 18.350. In all other counties in this state, the judgment creditor shall record a certified copy of the judgment or a lien record abstract, whereupon the judgment shall be a lien upon the real property of the judgment debtor in such counties. Neither docketing in the circuit court nor recording in any county other than the county of original circuit court docketing shall extend the lien of the judgment given in the district court more than 10 years from the original entry of the judgment in the district court.

(2) Whenever a judgment of the district court which was docketed pursuant to ORS 46.274 is renewed by the district court, the lien of the renewed judgment may also be extended by docketing in the circuit court or by recording a certified copy of the judgment or a lien record abstract of the renewed judgment in the County Clerk Lien Record of all counties in this state other than the county where the judgment is docketed. The renewed judgment and any lien thereof shall expire 10 years after entry of the renewed judgment. Execution may issue upon the renewed judgment until the judgment expires or is fully satisfied as provided in ORS 46.278. [1955 c.664 §3; 1969 c.438 §2; 1987 c.586 §18]

46.278 Execution of judgment not issued against real property until judgment docketed in circuit court. Execution to enforce a judgment in a district court must not be issued against or levied upon the real property of the defendant; but when a judgment given by a district court has been duly docketed in the circuit court in the county where the district court is located, thereafter it may be enforced as a judgment of the circuit court as provided in ORS chapter 23. [1977 c.876 §8; 1987 c.586 §19]

46.280 Rules of court; filing with State Court Administrator; effect of failure to file; fees. (1) A district court may make and enforce all rules necessary for the prompt and orderly dispatch of the business of the court and not inconsistent with applicable provisions of law, the Oregon Rules of Civil Procedure or rules made or orders issued by the Chief Justice of the Supreme Court or the presiding judge of the district court. If a majority of the judges of a court having two or more judges do not agree in respect to the making of rules under this subsection, the decision of the presiding judge shall control.

(2)(a) A certified copy of a rule referred to in subsection (1) of this section made or in effect before January 1, 1984, shall be filed in the office of the State Court Administrator not later than January 1, 1984. If a copy of a rule is not so filed, the rule is void.

(b) A certified copy of a rule referred to in subsection (1) of this section made or amended on or after January 1, 1984, shall be filed in the office of the State Court Administrator. No rule or amendment shall be effective unless so filed, and no rule or amendment so filed shall become effective before the 30th day after the date of filing.

(c) The State Court Administrator shall maintain the copies of all rules filed pursuant to this subsection, and shall keep a record of the date of filing thereof. The administrator shall, upon request, supply copies of the rules, and may charge a reasonable fee for such copies in order to recover the cost of compilation, copying and distribution of the rules. [Amended by 1973 c.484 §5; 1981 s.s. c.1 §11; 1983 c.763 §32]

46.290 [Repealed by 1981 s.s. c.3 §141]

46.300 [1959 c.552 §11; 1971 c.718 §3; 1979 c.568 §7; repealed by 1983 c.763 §9]

DISTRICT COURT AS COURT OF RECORD

46.330 District court as court of record. Subject to the provisions of this chapter, a district court is a court of record. [1975 c.611 §2]

46.335 Report of proceedings; exceptions; waiver. (1) All proceedings in district court shall be reported unless waived by the parties, except that proceedings in small claims actions and arraignments in violations and traffic infractions, including pleas and sentences thereon, need not be reported if a suitable record is otherwise maintained in accordance with rules of the Court of Appeals.

(2) Waiver of reporting in criminal cases or failure to make timely written request in accordance with local district court rule for reporting civil, violation and traffic infraction cases constitutes waiver of the right to appeal issues not otherwise preserved in the record. [1975 c.611 §3; 1977 c.876 §2]

46.340 When record to be prepared; form; rules of Court of Appeals; appeal on record. (1) Upon service of a copy of the notice of appeal, the district court clerk shall prepare the record. The record shall include a copy of all the material entries in the register of the district court relating to the cause and the appeal, and all the original papers relating to the cause and the appeal and filed with the district court. The record may include designated exhibits and the transcript of the proceedings in the district court. Upon the request of the Clerk of the Court of Appeals, the district court clerk shall deliver the record of the case.

(2) Unless some other form of reporting is specifically authorized by order of the Supreme Court, reporting in district court shall be by an audio record reporting device designated by the Supreme Court and operated under such rules as that court may prescribe. The transcript of proceedings reported in this manner shall be the audio record.

(3) The Court of Appeals shall make rules governing:

(a) Extensions of time for the performance of any act in connection with the preparation of the record.

(b) The filing of transcripts from the district court and their preparation, availability, distribution and charges therefor. Charges shall be reasonably commensurate with the cost incurred.

(c) Procedures for challenging the transcript.

(d) An agreed narrative statement in lieu of or in addition to a transcript.

(e) Procedures for filing written briefs.

(f) Presentation of oral argument.

(4) The appeal shall be heard and determined by the Court of Appeals on the record. Upon an appeal from a judgment in a case in which the right to jury trial is provided by Oregon law, the judgment shall be reviewed only as to questions of law appearing upon the record and shall be reversed or modified only for error substantially affecting the rights of the parties. Upon an appeal from a judgment in a case in which no right to jury trial is provided by Oregon law, the action shall be tried anew upon the record. Upon an appeal from a decree, the suit shall be tried anew upon the record. [1975 c.611 §4; 1985 c.540 §16]

46.345 District court reporter; appointment; duties. (1) If the Supreme Court specifically orders that a district court report its proceedings by court reporter, a reporter shall be appointed under a personnel plan established by the Chief Justice of the Supreme Court, and shall perform the same duties in the district court as provided by law for the circuit court reporter.

(2) When district court proceedings are reported by an audio record reporting device, the district court reporter shall operate the device during the proceedings. The duties of court reporter may be in addition to other duties of the person serving as reporter. [1975 c.611 §§8, 9; 1981 s.s. c.3 §33; 1985 c.496 §11]

46.350 [1975 c.611 §11; repealed by 1985 c.540 §47]

SMALL CLAIMS DEPARTMENT

46.405 Small claims department; jurisdiction. (1) Each district court shall have a small claims department.

(2) All actions for the recovery of money, damages, specific personal property, or any penalty or forfeiture, excepting class actions and actions providing for statutory attorney fees, where the amount or value claimed does not exceed $200, shall be commenced and prosecuted only in the small claims department. Where the amount or value claimed does not exceed $2,500, such actions may be commenced and prosecuted in the small claims department. [1971 c.760 §2; 1973 c.812 §2; 1975 c.592 §1; 1979 c.567 §1; 1983 c.242 §1; 1985 c.367 §1; 1987 c.725 §1]

46.410 [Amended by 1959 c.326 §1; 1965 c.569 §1; 1969 c.683 §1; repealed by 1971 c.760 §11]

46.415 District judges to sit in department; procedure. (1) The judges of a district court shall sit as judges of the small claims department.

(2) No formal pleadings other than the claim shall be necessary.

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

(4) No attorney at law or person other than the plaintiff and defendant and their witnesses shall appear on behalf of any party in litigation in the small claims department without the consent of the judge of the court.

(5) Notwithstanding the provisions of ORS 9.320, a corporation, the state or any city, county, district or other political subdivision or public corporation in this state, without appearance by attorney, may appear as a party to any action in the small claims department and in any supplementary proceeding in aid of execution after entry of a small claims judgment.

(6) Assigned claims may be prosecuted by an assignee in small claims department to the same extent they may be prosecuted in any other state court.

(7) In any small claims hearing provided for under ORS 742.520, an expert witness may appear by affidavit and medical records may be submitted directly to the court. [1971 c.760 §3; 1973 c.484 §6; 1981 s.s. c.1 §22; 1987 c.811 §1; 1993 c.282 §2]

46.420 [Repealed by 1971 c.760 §11]

46.425 Commencement of actions; contents of claim. (1) An action in the small claims department shall be commenced by the plaintiff's filing with the clerk of the district court a verified claim in the form prescribed by the court, and by paying the fee prescribed by ORS 46.221 (1)(f) for each action filed.

(2) The claim shall contain the name and address of the plaintiff and of the defendant, followed by a plain and simple statement of the claim, including the amount and the date the claim allegedly accrued. The claim shall include an affidavit signed by the plaintiff and stating that the plaintiff made a bona fide effort to collect the claim from the defendant before filing the claim with the clerk.

(3) Except in actions arising under ORS 90.100 to 90.940, the plaintiff must include in a claim all amounts claimed from the defendant arising out of a single transaction or occurrence. Any plaintiff alleging damages on a transaction requiring installment payments need only claim the installment payments due and owing as of the date of filing of the claim, and need not accelerate the remaining payments. The plaintiff may include in a claim all amounts claimed from a defendant on more than one transaction or occurrence if the total amount of the claim does not exceed $2,500.

(4) Notwithstanding subsection (3) of this section, a plaintiff bringing an action on assigned claims:

(a) Need bring an action only on those claims that have been assigned as of the date the action is filed; and

(b) May bring separate actions for each person assigning claims to the plaintiff. [1971 c.760 §4; 1977 c.875 §2; 1991 c.195 §1]

46.430 [Repealed by 1971 c.760 §11]

46.435 [1971 c.760 §5; 1973 c.393 §2; 1977 c.875 §3; 1979 c.567 §2; repealed by 1979 c.833 §36]

46.440 [Repealed by 1971 c.760 §11]

46.441 Department to give explanation of manner of giving notice. The small claims department of a district court shall provide to each plaintiff who files a claim with the department a written explanation of how notice may be served in actions in the department. [1977 c.875 §9]

46.445 Notice; content; service. (1) Upon the filing of a claim, 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 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.

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

NOTICE TO DEFENDANT:
READ THESE PAPERS CAREFULLY!!

Within 14 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 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.

[1971 c.760 §6; 1977 c.875 §4; 1977 c.877 §9a; 1989 c.741 §1; 1991 c.111 §4; 1991 c.195 §2]

46.450 [Repealed by 1971 c.760 §11]

46.455 Defendant's rights and liabilities; fees. Within 14 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; or

(c) If the amount or value claimed exceeds $200, 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 in district court actions together with the amount of the district court jury trial fee for the first day of trial. 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. [1971 c.760 §7; 1973 c.654 §1; 1973 c.812 §3a; 1977 c.875 §5; 1977 c.877 §10a; 1981 s.s. c.3 §94; 1983 c.673 §2; 1985 c.496 §13; 1991 c.111 §5; 1991 c.195 §3]

46.460 [Amended by 1965 c.619 §24; 1969 c.683 §2; repealed by 1971 c.760 §11]

46.461 Counterclaims by defendant; transfer of case on counterclaims; fees. (1) The defendant in an action in the small claims department may assert as a counterclaim any claim that, on the date of issuance of notice pursuant to ORS 46.445, the defendant may have against the plaintiff and that arises out of the same transaction or occurrence that is the subject matter of the claim filed by the plaintiff.

(2) If the amount or value of the counterclaim exceeds $2,500, the court shall strike the counterclaim and proceed to hear and dispose of the case as though the counterclaim had not been asserted unless the defendant files with the counterclaim a motion requesting that the case be transferred from the small claims department to a court of appropriate jurisdiction. After the transfer the plaintiff's claim will not be limited to the amount stated in the claim filed with the small claims department, though it must involve the same controversy.

(3)(a) If the amount or value of the counterclaim exceeds that specified in subsection (2) of this section, but does not exceed the jurisdictional limit of the district court for a counterclaim, and the defendant files a motion requesting transfer as provided in subsection (2) of this section, the case shall be transferred to the district court. The clerk of the court shall notify the plaintiff and defendant, by mail, of the transfer. The notice to the plaintiff shall contain a copy of the counterclaim and shall instruct the plaintiff to file with the court and serve by mail on the defendant, within 20 days following the mailing of the notice, a reply to the counterclaim and, if the plaintiff proposes to increase the amount of the claim originally filed with the small claims department, an amended claim for the increased amount. Proof of service on the defendant of the plaintiff's reply and amended claim may be made by certificate of the plaintiff or plaintiff's attorney attached to the reply and amended claim filed with the court. The defendant is not required to answer an amended claim of the plaintiff.

(b) Upon filing the motion requesting transfer, the defendant shall pay to the clerk of the court the transfer fee required by ORS 46.221 (1)(h) and an amount equal to the difference between the fee paid by the defendant as required by ORS 46.221 (1)(f) and the fee required of a defendant by ORS 46.221 (1)(b). Upon filing a reply to the counterclaim, the plaintiff shall pay to the clerk of the court an amount equal to the difference between the fee paid by the plaintiff as required by ORS 46.221 (1)(f) and the fee required of a plaintiff by ORS 46.221 (1)(a).

(4)(a) If the amount or value of the counterclaim exceeds the jurisdictional limit of the district court for a counterclaim and the defendant files a motion requesting transfer as provided in subsection (2) of this section, the district court shall order transfer of the case to the circuit court and the case shall be transferred and governed as provided in ORS 46.075 (1) and (2). The clerk of the district court shall notify the plaintiff and defendant, by mail within 10 days following the order of transfer, of the transfer. The notice to the plaintiff shall contain a copy of the counterclaim and shall inform the plaintiff as to further pleading by the plaintiff in the circuit court.

(b) Upon filing the motion requesting transfer, the defendant shall pay to the clerk of the district court the transfer fee required by ORS 46.221 (1)(h), and thereafter the defendant shall pay to the clerk of the circuit court an amount equal to the difference between the fee paid by the defendant as required by ORS 46.221 (1)(f) and the filing fee required of a defendant by ORS 21.110. Upon filing a reply to the counterclaim, the plaintiff shall pay to the clerk of the circuit court an amount equal to the difference between the fee paid by the plaintiff as required by ORS 46.221 (1)(f) and the filing fee required of a plaintiff by ORS 21.110. [1977 c.875 §10; 1979 c.567 §3; 1983 c.242 §2; 1983 c.673 §5; 1985 c.367 §2; 1985 c.496 §31; 1987 c.714 §9; 1987 c.725 §2; 1991 c.790 §7]

46.465 Time and place of hearing; notice; procedure if defendant claims jury trial; fees. (1) If the defendant demands a hearing in the small claims department, under the direction of the court the clerk shall fix a day and time for the hearing and shall mail to the parties a notice of the hearing time in the form prescribed by the court, instructing them to bring witnesses, documents and other evidence pertinent to the controversy.

(2) If the defendant asserts a counterclaim, the notice of the hearing time shall contain a copy of the counterclaim.

(3) If the defendant claims the right to a jury trial, the clerk shall notify the plaintiff to file a formal complaint within 20 days following the mailing of such notice. The notice shall instruct the plaintiff to serve a summons and copy of the complaint by mail on the defendant at the designated address of the defendant. Proof of service of the summons and complaint copy may be made by certificate of the plaintiff or plaintiff's attorney attached to the complaint prior to its filing. The plaintiff's claim in such formal complaint is not limited to the amount stated in the claim filed in the small claims department but it must involve the same controversy. The defendant shall have 10 days in which to move, plead or otherwise appear following the day on which the summons and copy of the complaint would be delivered to the defendant in due course of mail. Thereafter, the cause shall proceed as other causes in the district court, and costs and disbursements shall be allowed and taxed and fees not previously paid shall be charged and collected as provided in ORS 46.210 and 46.221 for other cases tried in district court, except that the appearance fee for plaintiff shall be an amount equal to the difference between the fee paid by the plaintiff as required by ORS 46.221 (1)(f) and the fee required of a plaintiff by ORS 46.221 (1)(a). [1971 c.760 §8; 1975 c.346 §1; 1983 c.673 §3; 1985 c.496 §14; 1991 c.790 §8]

46.470 [Amended by 1963 c.248 §1; repealed by 1971 c.760 §11]

46.475 Time extension; default; dismissal; refund of fees; resetting claim for hearing. (1) Upon written request, the court may extend to the parties additional time within which to make formal appearances required in the small claims department.

(2) If the defendant fails to pay the claim, demand a hearing, or demand a jury trial, upon written request from the plaintiff the clerk shall enter a judgment against the defendant for the relief claimed plus the amount of the small claims filing fees and service expenses paid by the plaintiff and the prevailing party fee provided by ORS 20.190 (3).

(3) If the plaintiff fails within the time provided to file a formal complaint pursuant to ORS 46.465 (3), the clerk shall:

(a) Dismiss the case without prejudice; and

(b) If the defendant applies therefor in writing to the clerk not later than 30 days after the expiration of the time provided for the plaintiff to file a formal complaint, refund to the defendant the amount of the jury trial fee paid by the defendant under ORS 46.455 (2)(c).

(4) If the defendant appears at the time set for hearing but no appearance is made by the plaintiff, the claim shall be dismissed

with prejudice. If neither party appears, the claim shall be dismissed without prejudice.

(5) Upon good cause shown within 60 days, the court may set aside a default judgment or dismissal and reset the claim for hearing. [1971 c.760 §9; 1977 c.875 §6; 1985 c.496 §15; 1991 c.111 §6]

46.480 [Amended by 1969 c.683 §3; repealed by 1971 c.760 §11]

46.485 Extent and effect of small claim judgment. (1) In addition to other award, the prevailing party shall be entitled to a judgment for the small claims filing fees and service expenses paid by the party and the prevailing party fee provided for in ORS 20.190 (3). The award shall be paid or the property delivered upon such terms and conditions as the judge may prescribe.

(2) The court may allow to the defendant a set-off not to exceed the amount of plaintiff's claim, but in such case the court shall cause to be entered in the record the amount of the set-off allowed.

(3) No attachment shall issue on any cause in the small claims department.

(4) A judgment in the small claims department is conclusive upon the parties and no appeal may be taken from the judgment.

(5) The clerk of the district court shall keep a record of all actions, proceedings and judgments in the small claims department.

(6) A judgment in the small claims department is a judgment of the district court. The clerk shall enter such judgment in the register of the district court. Money judgments shall be subject to ORCP 70 A(2) and ORCP 70 B. Execution and other process on execution provided by law may issue on judgments in the small claims department as in other cases in the district court. [1971 c.760 §10; 1977 c.875 §7; 1985 c.540 §17; 1991 c.111 §7]

46.490 [Repealed by 1971 c 760 §11]

46.495 [1979 c.567 §4; repealed by 1981 c.883 §1]

46.500 [Amended by 1969 c.683 §4; repealed by 1971 c.760 §11]

46.505 [1969 c.683 §6; repealed by 1971 c.760 §11]

46.510 [Repealed by 1971 c.760 §11]

46.520 [Amended by 1969 c.683 §7; repealed by 1971 c.760 §11]

46.530 [Repealed by 1971 c.760 §11]

46.540 [Amended by 1969 c.683 §8; repealed by 1971 c.760 §11]

46.550 [Repealed by 1981 s.s. c.3 §141]

46.560 Where action to be commenced and tried. Except as provided in subsections (1) and (2) of this section, all actions in small claims department shall be commenced and tried in the county in which the defendants, or one of them, reside or may be found at the commencement of the action.

(1) When an action is founded on an alleged tort, it may be commenced either in the county where the cause of action arose or in the county where the defendants, or one of them, reside or may be found at the commencement of the action.

(2) When the defendant has contracted to perform an obligation in a particular county, action may be commenced in either that county or where the defendants, or one of them, reside or may be found at the commencement of the action. [1973 c.446 §2]

JUDGES

46.610 Qualifications of judges. (1) No person shall be eligible to the office of judge of the district court unless the person is a citizen of the United States, a resident of this state and a member of the Oregon State Bar.

(2) Except as provided in subsection (4) of this section, each judge of the district court shall be a resident of or have a principal office in a county in which the district court is located.

(3) The residence within this state required by subsection (1) of this section shall have been maintained for at least three years, and the residence or principal office required by subsection (2) of this section shall have been maintained for at least one year, immediately prior to appointment or becoming a candidate for election to the office of judge of the district court.

(4) In any county having a population of 500,000 or more, according to the latest federal decennial census, any judge of the district court may reside within 10 miles of the boundary of the county. [Amended by 1965 c.510 §20; 1971 c.633 §16; 1975 c.327 §7; 1979 c.568 §8]

46.620 Oath of judges. District judges shall take and subscribe the same oath as circuit judges.

46.630 Terms of judges; private practice of law prohibited. Except as provided in ORS 46.026 (1)(b) or in ORS 51.220, each judge of a district court shall hold office for a term of six years, and until a successor is elected and qualified. During tenure of office, a judge of a district court shall not engage in the practice of law. [Amended by 1957 c.726 §2; 1963 c.614 §2; 1969 c.96 §5]

46.632 Salary and expenses of judges. (1) Each judge of a district court shall receive such salary as is provided by law.

(2) Each judge of a district court is entitled to reimbursement for hotel bills and traveling expenses of the judge necessarily incurred by the judge in the performance of duties outside the county in which the dis-

trict court for which the judge was elected or appointed is located.

(3) The salaries, hotel bills and traveling expenses of the judges of the district courts shall be paid by the state in the same manner as the salaries, hotel bills and traveling expenses of circuit court judges. [1959 c.559 §5; 1961 c.628 §1; 1963 c.487 §1; 1965 c.171 §2; 1967 c.38 §2; 1969 c.365 §2; 1971 c.642 §2]

46.635 [Amended by 1953 c.563 §7; 1955 c.562 §1; 1957 c.439 §1; repealed by 1959 c.559 §10]

46.638 [1959 c.552 §8; repealed by 1975 c.706 §10]

46.640 [Repealed by 1959 c.559 §10]

46.642 [1965 c.377 §1; 1969 c.269 §3; 1971 c.213 §3; repealed by 1975 c.706 §10]

46.648 Powers of judges to act in joint or separate session; testing process. If two or more persons are sitting as judges of the district court in a county:

(1) Any two or more of them may act in joint session for the trial or determination of any cause, matter or proceeding before the court in the county, including jury cases. If the judges acting in joint session are equally divided in opinion, the opinion of the presiding judge, or if none, then of the judge senior in continuous service, or if neither, then of the judge senior in age, prevails; otherwise the decision of the majority prevails.

(2) Each of them may proceed separately with and try, simultaneously in the county, all causes, matters and proceedings brought before the court.

(3) Process may be tested in the name of any of them. [1959 c.552 §10]

46.650 [Repealed by 1961 c.724 §34]

46.655 Departments of district court having two or more judges. In a district court having two or more judges there shall be a department for each judge of the district court. The departments shall be designated by consecutive numbers, beginning with Department No. 1. Any successor to the judge in a department shall be elected or appointed as judge in and shall preside over the department. [1961 c.724 §23]

46.660 [Repealed by 1961 c.724 §34]

46.665 Presiding judge of district court having two or more judges. (1) The presiding judge of a district court having two or more judges shall be a judge of the court appointed as provided in ORS 1.003. The judge of a district court having one judge is the presiding judge of the court.

(2) The presiding judge may designate another judge of the court to perform the functions of the office of presiding judge when the presiding judge is temporarily unable to perform those functions.

(3) The presiding judge, to facilitate exercise of administrative authority and supervision over the court and consistent with applicable provisions of law and the Oregon Rules of Civil Procedure, may:

(a) Apportion and otherwise regulate the disposition of the judicial business of the court.

(b) Make rules, issue orders and take other action appropriate to that exercise. [1961 c.724 §24; 1981 s.s. c.1 §10]

46.670 [Repealed by 1969 c.96 §6]

46.680 Filling vacancies in judgeships of Multnomah County District Court. All vacancies in judgeships of a district court organized under ORS 46.010 shall be filled by appointment by the Governor, and district judges so appointed shall hold office until the next general election.

46.684 [1957 c.405 §5; repealed by 1961 c.724 §34]

46.686 [1957 c.405 §6; repealed by 1961 c.724 §34]

46.690 [Repealed by 1959 c.552 §16]

46.710 [Repealed by 1969 c.96 §6]

46.720 [Amended by 1953 c.306 §17; 1979 c.568 §9; repealed by 1981 s.s. c.3 §141]

46.725 [1975 c.327 §5; repealed by 1979 c.568 §17]

46.730 [Amended by 1955 c.664 §4; repealed by 1981 s.s. c.3 §141]

46.735 [1979 c.58 §4; repealed by 1985 c.540 §47]

46.740 [Amended by 1955 c.664 §5; 1963 c.427 §1; 1975 c.611 §21; repealed by 1985 c.540 §47]

46.750 [Amended by 1959 c.524 §1; 1963 c.474 §1; 1979 c.58 §2; repealed by 1985 c.540 §47]

46.760 [Repealed by 1985 c.540 §47]

46.770 [Amended by 1977 c.518 §1; repealed by 1981 s.s. c.3 §141]

46.780 [1965 c.203 §1; 1975 c.327 §8; 1979 c.568 §10; repealed by 1981 s.s. c.3 §141]

CRIMINAL PROCEEDINGS

46.800 Criminal procedure generally; challenges; costs and disbursements; disposition of fines and forfeited bail. (1) District courts are governed in their criminal and quasi-criminal actions and proceedings by the provisions of law regulating such actions and proceedings as provided in ORS chapters 131, 133, 135, 136 and 137, insofar as the same are or can be made applicable in the several cases arising before them, except when other provisions of law provide for a different procedure in district courts for such actions and proceedings, in which event such other provisions shall control.

(2) In criminal actions in district courts, each party may take challenges for cause and three peremptory challenges, and no more. The manner in which challenges may be taken shall be the same as provided for in the circuit court.

(3) In criminal actions in district courts, the costs and disbursements shall be added to the fine, penalty or sentence imposed in a

sum not less than $5; but the court, at its discretion in justifiable cases, may on behalf of the state waive payment of all or any part of the costs and disbursements in excess of $5.

(4) Except as otherwise specifically provided by law, all fines, costs and forfeited bail ordered to be paid in criminal actions and proceedings, as defined in ORS 131.005, in the district court shall be accounted for and distributed as provided in ORS 137.293 and 137.295, as monetary obligations payable to the state. [1977 c.876 §10 (enacted in lieu of 156.610, 156.620, 156.640 and 156.650); 1981 s.s. c.3 §103; 1983 c.763 §43; 1985 c.565 §6; 1987 c.905 §4]

46.810 Appeal from district court in criminal proceeding subject to ORS chapter 138. An appeal taken from district court in a criminal action or proceeding shall be in accordance with and be subject to the provisions of ORS chapter 138. [Formerly 157.081]

CHAPTERS 47 TO 50

[Reserved for expansion]