

1987 Assembly Bill 309

Date of enactment: April 8, 1988  
Date of publication: April 18, 1988

## 1987 Wisconsin Act 208

AN ACT to repeal subchapter V of chapter 425, 799.09 (1), 799.11 (1) (bm), 799.20 (3) and 799.25 (10) (intro.); to renumber and amend 799.05 (3) and 799.09 (2); to amend 421.401 (1) (intro.), 421.401 (1) (c), 757.68 (1) (title), 757.68 (1) (b), 799.01 (intro.), 799.01 (3), 799.01 (4) (intro.), 799.02 (1), 799.06 (1), 799.11 (1) (b), 799.12 (3), 799.16 (1), (2) and (3) (intro.), (a) and (b), 799.206 (title) and (1), 799.206 (3), 799.207 (title), 799.207 (1) (a) and (c), 799.21 (3), 799.21 (4), 799.22 (1) and (2), 799.24 (1), 799.25 (9), 799.29 (1) (c), 799.42, 801.50 (5m), 814.62 (3) (a) to (c) and 814.62 (3) (d); to repeal and recreate 421.401 (2), 799.05 (6), 799.05 (7), 799.06 (3), 799.12 (2), 799.12 (4), 799.25 (10) (a) and 911.01 (4) (d); and to create 799.02 (3), 799.05 (3) (c), 799.12 (6), 799.12 (7), 799.20 (4), 799.209, 799.22 (4), 799.24 (3), 799.26 and 814.62 (3) (e) of the statutes, relating to small claims actions and venue for consumer credit transactions.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 421.401 (1) (intro.) of the statutes is amended to read:

421.401 (1) (intro.) The venue for a claim arising out of a consumer transaction or a consumer credit transaction is the county:

SECTION 2. 421.401 (1) (c) of the statutes is amended to read:

421.401 (1) (c) Where the customer sought or acquired the property, services, money or credit which is the subject of the transaction or signed the document evidencing his or her obligation under the terms of the transaction.

SECTION 3. 421.401 (2) of the statutes is repealed and recreated to read:

421.401 (2) When it appears from the return of service of the summons or otherwise that the county in which the action is pending under sub. (1) is not a proper place of trial for such action, unless the defendant appears and waives the improper venue, the court shall act as follows:

(a) Except as provided in par. (b), if it appears that another county would be a proper place of trial, the court shall transfer the action to that county.

(b) If the action arises out of a consumer credit transaction, the court shall dismiss the action for lack of jurisdiction.

SECTION 4. Subchapter V of chapter 425 of the statutes is repealed.

SECTION 5. 757.68 (1) (title) of the statutes is amended to read:

757.68 (1) (title) APPOINTMENT.

SECTION 6. 757.68 (1) (b) of the statutes is amended to read:

757.68 (1) (b) In counties having a population of 500,000 or more, the county board shall establish at least one full-time court commissioner position under par. (a) to assist in the administration of the procedures for small claims type actions under ch. 799. In

counties having a population of ~~100,000 or more but~~ less than 500,000, the county board may establish one or more part-time or full-time court commissioner positions under par. (a) to assist in the administration of small claims type actions under ch. 799. Any court commissioner appointed under this paragraph shall be an attorney licensed to practice in this state.

SECTION 7. 799.01 (intro.) of the statutes is amended to read:

**799.01 Applicability of chapter.** (intro.) Subject to the limitations of ~~ss. 799.11 and 799.12~~ Except as provided in ss. 799.02 (1) and 799.21 (4), the procedure in this chapter is the exclusive procedure to be used in circuit court in the following actions specified in subs. (1) to (4), if all the defendants reside within the state and can be personally served in the state, and the procedure is permissive in those actions otherwise. The applicable actions are:

SECTION 8. 799.01 (3) of the statutes is amended to read:

799.01 (3) REPLEVINS. Actions for replevin under ss. 810.01 to 810.13 where the value of the property claimed does not exceed ~~\$1,000~~ \$2,000.

SECTION 9. 799.01 (4) (intro.) of the statutes is amended to read:

799.01 (4) OTHER CIVIL ACTIONS. (intro.) Other civil actions where the amount claimed is ~~\$1,000~~ \$2,000 or less, provided that such if the actions or proceedings are:

SECTION 10. 799.02 (1) of the statutes is amended to read:

799.02 (1) If a counterclaim or cross complaint is filed, which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim and which is beyond the limitations of s. 799.01, the person filing the same shall pay the fee prescribed in s. 814.62 (3) (b), and the entire matter shall be tried under chs. 801 to 847 procedure, except that the counterclaim or cross complaint shall be deemed denied and a responsive pleading thereto is not required unless ordered by

the court and the requirements for appearance by the parties shall be governed by s. 799.06 (2).

SECTION 10m. 799.02 (3) of the statutes is created to read:

799.02 (3) If a counterclaim or cross complaint is filed that is beyond the limitations of s. 799.01, the person filing the counterclaim or cross complaint shall mail a notice to the plaintiff or the plaintiff's attorney, if any, at the address listed on the summons. The notice shall be mailed on the same day the counterclaim or cross complaint is filed and shall inform the plaintiff of all of the following:

(a) That a counterclaim or cross complaint has been filed in the action.

(b) That as a result of that filing the entire matter may be tried under chs. 801 to 847 procedure.

(c) That the summons, specifying the time and date the parties are required to appear at court, may no longer apply.

(d) The telephone number of the appropriate clerk of circuit court that the plaintiff may call to find out if he or she should still appear in court at the time and date listed on the summons.

(e) That a copy of the counterclaim or cross complaint will be served on the plaintiff or the plaintiff's attorney within 60 days after filing.

SECTION 11. 799.05 (3) of the statutes is renumbered 799.05 (3) (a) and amended to read:

799.05 (3) (a) Every summons shall specify a return date and time.

(b) Except in eviction actions, the return date for a summons served upon a resident shall be not less than 8 days nor more than 30 days from the issue date, and service shall be made not less than 8 days prior to the return date. In eviction actions the return date for a summons served upon a resident shall be not less than 5 days nor more than 30 days from the issue date, and service shall be made not less than 5 days prior to the return date.

(d) The clerk shall set the day and hour at which the summons is returnable.

SECTION 12. 799.05 (3) (c) of the statutes is created to read:

799.05 (3) (c) The return date for a summons served upon a nonresident shall be not less than 20 days from the issue date.

SECTION 13. 799.05 (6) of the statutes is repealed and recreated to read:

799.05 (6) FORM. Except as provided in s. 799.22 (4) (b) 3, the summons shall be substantially in the following form:

STATE OF WISCONSIN  
CIRCUIT COURT: .... COUNTY

\_\_\_\_\_  
A.B., Plaintiff  
vs. S U M M O N S (Small Claims)  
C.D., Defendant  
\_\_\_\_\_

THE STATE OF WISCONSIN, To said defendant:

You are hereby summoned to appear and plead to the plaintiff's complaint in the above court at .... in the (city) (village) of ....., on the .... day of ....., 19.., at .... o'clock (a.m.) (p.m.). [A copy of the complaint is hereto attached.] [The plaintiff will state his or her demand on that date.] In case of your failure to appear, a judgment may be rendered against you in accordance with the demands made by the plaintiff. The nature of the demand being made upon you is .... (state in terms of section 799.01 of the Wisconsin Statutes) and the amount of damages, if any, demanded is \$.....

Dated: ....., 19..

E. F.

.....  
Clerk of Circuit Court

or  
G. H.

.....  
Plaintiff's Attorney

Plaintiff's Address

....

Plaintiff's Attorney (if any)

Name: ....

Address: ....

Defendant's Address

....

SECTION 14. 799.05 (7) of the statutes is repealed and recreated to read:

799.05 (7) FORM; COURT COMMISSIONER. Except as provided in s. 799.22 (4) (b) 3, in counties establishing at least one part-time or full-time court commissioner position under s. 757.68 (1) (b), the summons shall be substantially in the following form:

STATE OF WISCONSIN  
CIRCUIT COURT: .... COUNTY

\_\_\_\_\_  
A. B., Plaintiff  
vs. S U M M O N S (Small Claims)  
C. D., Defendant  
\_\_\_\_\_

THE STATE OF WISCONSIN, To said defendant:

You are being sued for:

.... Eviction

.... Return of Property

.... \$ .....

If you wish to dispute this matter, you must then be in Room ....., of the .... (county) County Courthouse, .... (address), .... (city), Wisconsin before .... o'clock (a.m.) (p.m.), on ....., 19... If you do not appear, a judgment may be given to the person suing you for what the person is asking.

You are encouraged to bring with you all papers and documents relating to this matter, but there is no need to bring witnesses at this time.

Dated at .... County, Wisconsin, this .... day of .... , 19...

....  
PLAINTIFF'S ATTORNEY or PLAINTIFF  
....  
ADDRESS E. F.  
....  
PHONE Clerk of Circuit Court  
.....  
or  
G. H.  
.....  
Plaintiff or Plaintiff's Attorney

SECTION 15. 799.06 (1) of the statutes is amended to read:

799.06 (1) PLEADINGS. ~~Except as provided in s. 799.41 with respect to complaints in eviction actions and except as provided in sub. (3),~~ All pleadings except the initial complaint may be oral. Any circuit court may by order rule require written pleadings and any judge or court commissioner may require written pleadings in a particular case.

SECTION 16. 799.06 (3) of the statutes is repealed and recreated to read:

799.06 (3) The complaint in an eviction action shall conform to s. 799.41. The complaint in other actions under this chapter shall be in writing and shall be substantially in the following form:

STATE OF WISCONSIN  
CIRCUIT COURT: .... COUNTY

A.B., Plaintiff

Address:

vs.

C O M P L A I N T

C.D., Defendant

Case No. ....

Address:

For plaintiff's claim against defendant, plaintiff states that:

1. Plaintiff's injuries or losses occurred on or about .... (month and day), 19.., and under the following circumstances (brief statement of the facts of plaintiff's claim):  
.....  
.....  
.....

2. Wherefore, plaintiff demands judgment for (return of property) (the sum of \$....) plus attorney fees, if any, costs of this suit and such other relief as the court deems proper.

Signed: ....

PLAINTIFF OR PLAINTIFF'S ATTORNEY

Address: ....

SECTION 17. 799.09 (1) of the statutes is repealed.

SECTION 18. 799.09 (2) of the statutes is renumbered 799.09 and amended to read:

**799.09 (title) Public information.** Information regarding the existence, location and hours of the circuit court's small claims system shall be disseminated and publicized throughout the county by the clerk of court. Each county shall produce and make available

to all litigants in small claims actions publications explaining the procedures to be followed by litigants in small claims actions.

SECTION 19. 799.11 (1) (b) of the statutes is amended to read:

799.11 (1) (b) In any claim arising out of a consumer transaction, as defined in s. 421.301 (13), or a consumer credit transaction, as defined in s. 421.301 (10), in the county specified by s. 421.401.

SECTION 20. 799.11 (1) (bm) of the statutes is repealed.

SECTION 21. 799.12 (2) of the statutes is repealed and recreated to read:

799.12 (2) Any circuit court may by rule authorize the service of summons in some or all actions under this chapter, except eviction actions, by mail under sub. (3) in lieu of personal or substituted service under s. 801.11.

SECTION 22. 799.12 (3) of the statutes is amended to read:

799.12 (3) ~~Except in eviction actions~~ If authorized by court rule under sub. (2), service may be made by mail by leaving the original and necessary copies of the summons with the clerk of court, together with the fee prescribed in s. 814.62 (4). The court may by rule require the use of certified mail with return receipt requested, in which event the additional fee prescribed in s. 814.62 (4) shall be paid for each defendant. The clerk shall mail a copy to each defendant at the last-known address as specified in the summons. Service of the summons is considered completed when it is mailed, unless the envelope enclosing the summons has been returned unopened to the clerk prior to the return date. All mailing of summonses shall be done in envelopes upon which the clerk's return address appears, with a request to return to that address. Service by mail to obtain a personal judgment shall be limited to the county where the action is commenced.

SECTION 23. 799.12 (4) of the statutes is repealed and recreated to read:

799.12 (4) If with reasonable diligence the defendant cannot be served by personal or substituted service under s. 801.11, or if mailed service is authorized under sub. (2) and the envelope enclosing the summons is returned unopened to the clerk, service may be made by mailing and publication under sub. (6). The clerk shall issue a new return date allowing timely publication of a class 3 notice under ch. 985.

SECTION 24. 799.12 (6) of the statutes is created to read:

799.12 (6) (a) Service by mailing and publication authorized under sub. (4) may be made as provided in s. 801.11 (1) (c) or as provided in this subsection.

(b) If the defendant's post-office address can be ascertained with reasonable diligence, service may be made by mailing to the defendant a copy of the summons at or immediately prior to the first publication

and by publishing the summons as a class 3 notice under ch. 985 in the form under par. (c).

(c) If the defendant's post-office address cannot be ascertained with reasonable diligence, the mailing may be omitted and service may be made by publishing as a class 3 notice under ch. 985 a notice in substantially the following form, except as provided in s. 799.22 (4) (b) 3:

**SMALL CLAIMS SUMMONS NUMBER ....**

.... (Defendant's Name)

.... (Defendant's Address, if known)

You are being sued by .... (plaintiff's name) in the small claims court for .... County, .... (room number, address and telephone number of the court). A hearing will be held at .... o'clock (a.m.) (p.m.), on ....., 19... If you do not appear, a judgment may be given to the person suing you. [A copy of the claim has been mailed to you at the address above.]

SECTION 25. 799.12 (7) of the statutes is created to read:

799.12 (7) Any circuit court may by rule authorize service of the summons and complaint prior to filing and authentication thereof, provided the appropriate fee under s. 814.62 is paid before the summons is issued and the summons is not reusable for a different defendant.

SECTION 26. 799.16 (1), (2) and (3) (intro.), (a) and (b) of the statutes are amended to read:

799.16 (1) BASIS. In proceedings in rem or quasi in rem no judgment shall be entered against a defendant for an amount in excess of the value of the property unless based on personal or substituted service as provided in s. 799.12 (1) ~~and (2)~~, or unless the defendant appears without objecting to the jurisdiction of the court over defendant's person.

(2) ADJOURNMENT AND PUBLICATION. When the defendant has not been served with personal or substituted service pursuant to s. 799.12 (1) ~~and (2)~~ and does not waive the defense of lack of jurisdiction over the person under s. 802.06 (8) and the court has jurisdiction over the property, service may be made on the defendant by publication. If service is to be made by publication, the proceeding shall be adjourned to a day certain by the court, and a notice in substantial conformity with sub. (4) shall be published as a class 3 notice, under ch. 985.

(3) ADJOURNMENT, POSTING AND MAILING IN EVICTION ACTIONS. (intro.) In eviction actions, when the defendant has not been served with personal or substituted service pursuant to s. 799.12 (1) ~~and (2)~~ and does not waive the defense of lack of jurisdiction over the person under s. 802.06 (8), service may be made as follows:

(a) If the summons is returned more than 7 days prior to the return date with proof that the defendant cannot be served with personal or substituted service within the state under s. 799.12 (1) ~~and (2)~~, the plaintiff may, at least 7 days prior to the return date, affix a copy of the summons and complaint onto some part

of the premises where it may be conveniently read ~~for at least 7 days prior to the return date~~. At least 5 days prior to the return date an additional copy of the summons and complaint shall also be mailed to the defendant at the last-known address, even if it is the premises which are the subject of the action.

(b) In all other cases where the summons and complaint are returned with proof that the defendant cannot be served with personal or substituted service within the state under s. 799.12 (1) ~~and (2)~~, the court shall, on the return date, adjourn the case to a day certain not less than 7 days from the return date, and the plaintiff shall affix a notice in substantial conformity with sub. (4) (c) onto some part of the premises where it may be conveniently read ~~until such adjourned date~~. At least 5 days prior to the return date, an additional copy of said notice, together with a copy of the summons and complaint, shall be mailed to the defendant at the last-known address, even if it is the premises which are the subject of the action.

SECTION 27. 799.20 (3) of the statutes is repealed.

SECTION 28. 799.20 (4) of the statutes is created to read:

799.20 (4) INQUIRY OF DEFENDANT WHO APPEARS ON RETURN DATE. If the defendant appears on the return date of the summons or any adjourned date thereof, the court or court commissioner shall make sufficient inquiry of the defendant to determine whether the defendant claims a defense to the action. If it appears to the court or court commissioner that the defendant claims a defense to the action, the court or court commissioner shall schedule a trial of all the issues involved in the action, unless the parties stipulate otherwise or the action is subject to immediate dismissal.

SECTION 29. 799.206 (title) and (1) of the statutes are amended to read:

**799.206 (title) Return date proceedings before court commissioner.**

(1) In counties establishing at least one part-time or full-time court commissioner position under s. 757.68 (1) (b), all actions and proceedings commenced under this chapter shall be returnable before a court commissioner appointed under s. 757.68. In any other county, a court commissioner may conduct return date proceedings if delegated such authority under s. 757.69 (1) (d).

SECTION 30. 799.206 (3) of the statutes is amended to read:

799.206 (3) When all parties appear in person or by their attorneys on the return date in an eviction, garnishment or replevin action and any party claims that a contest exists, the parties or their attorneys or both matter shall be ordered to appear forthwith before the calendar scheduled for a hearing, to be held as soon as possible before a judge for a hearing.

SECTION 31. 799.207 (title) of the statutes is amended to read:

**799.207** (title) **Proceedings before court commissioner.**

SECTION 32. 799.207 (1) (a) and (c) of the statutes are amended to read:

799.207 (1) (a) The Any court commissioner shall assigned to assist in the administration of small claims may hold a conference with the parties or their attorneys or both on the return date, examine pleadings and identify issues.

(c) ~~The court commissioner may consider all relevant information and the proceedings shall not be governed by the rules of evidence~~ be conducted as provided in s. 799.209.

SECTION 33. 799.209 of the statutes is created to read:

**799.209 Procedure.** At any trial, hearing or other proceeding under this chapter:

(1) The court or court commissioner shall conduct the proceeding informally, allowing each party to present arguments and proofs and to examine witnesses to the extent reasonably required for full and true disclosure of the facts.

(2) The proceedings shall not be governed by the common law or statutory rules of evidence except those relating to privileges under ch. 905. The court or court commissioner shall admit all evidence having reasonable probative value, but may exclude irrelevant or repetitious evidence or arguments. An essential finding of fact may not be based solely on a declarant's oral hearsay statement unless it would be admissible under the rules of evidence.

(3) The court or court commissioner may conduct questioning of the witnesses and shall endeavor to ensure that the claims or defenses of all parties are fairly presented to the court or court commissioner.

(4) The court or court commissioner shall establish the order of trial and the procedure to be followed in the presentation of evidence and arguments in an appropriate manner consistent with the ends of justice and the prompt resolution of the dispute on its merits according to the substantive law.

SECTION 34. 799.21 (3) of the statutes is amended to read:

799.21 (3) TRIAL BY JURY. (a) Any party may, upon payment of the fees prescribed in s. ss. 814.61 (4) and 814.62 (3) (e), file a written demand for trial by jury. If no party demands a trial by jury, the right to trial by jury is waived forever. In eviction actions, the demand shall be filed at or before the time of joinder of issue; in all other actions within 20 days thereafter.

(b) In counties establishing at least one part-time or full-time court commissioner position under s. 757.68 (1) (b), except in eviction actions which shall be governed by par. (a), demand for trial by jury shall be made at the time a demand for trial is filed. If the party requesting a trial does not request a jury trial, any other party may request a jury trial by filing the request with the court and mailing copies to all other

parties within 15 days from the date of mailing of the demand for trial or the date on which personal notice of demand is given, whichever is applicable. If no party demands a trial by jury, the right to trial by jury is waived forever. The fees prescribed in s. ss. 814.61 (4) and 814.62 (3) (e) shall be paid when the demand for a trial by jury is filed.

SECTION 35. 799.21 (4) of the statutes is amended to read:

799.21 (4) JURY PROCEDURE. If there is a demand for a trial by jury, the judge or court commissioner shall place the case on the trial calendar and a jury of 6 persons shall be chosen as provided in s. 345.43 (3) (b). The parties shall proceed as if the action had originally been begun as a proceeding under chs. 801 to 807, except that the court is not required to provide the jury with one complete set of written instructions under s. 805.13 (4). ~~If no complaint has previously been served and filed, the plaintiff shall accordingly file and serve a written complaint within 20 days of the jury demand, and the court shall place the case on the trial calendar and the requirements for appearance by the parties shall be governed by s. 799.06 (2).~~

SECTION 36. 799.22 (1) and (2) of the statutes are amended to read:

799.22 (1) WHEN PLAINTIFF FAILS TO APPEAR. If the plaintiff fails to appear ~~and plead~~ on the return date or on the date set for trial, the court may enter a judgment for the defendant dismissing the action, on motion of the defendant or on its own motion.

(2) WHEN DEFENDANT FAILS TO APPEAR. If the defendant fails to appear ~~and plead~~ on the return date or on the date set for trial, the court may enter a judgment upon due proof of facts which show the plaintiff entitled thereto.

SECTION 37. 799.22 (4) of the statutes is created to read:

799.22 (4) PLEADING IN LIEU OF APPEARANCE. (a) Any circuit court may by rule permit a defendant to join issue in any of the actions specified in s. 799.01 without appearing on the return date by answering, either by mail or by telephone, within such time and in such manner as the rule permits.

(am) If the defendant is a nonresident, the circuit court shall adopt a rule to permit the defendant to join issue in any of the actions specified in s. 799.01 without appearing on the return date by answering by mail, in such manner as the rule permits, and if the court adopts a rule under par. (a) to permit the defendant to join issue without appearing on the return date by answering by telephone, then the defendant shall also be permitted to join issue by answering by telephone, in such manner as the rule permits.

(b) If a court adopts a rule under par. (a), then all of the following apply:

1. The existence of the rule shall be deemed an appearance by the plaintiff in that court on the return date for purposes of sub. (1).

2. A proper answer by the defendant under the rule shall be deemed an appearance by the defendant in that court on the return date for purposes of sub. (2).

3. Any summons under s. 799.05 (6) or (7) or 799.12 (6) (c) and any notice under s. 799.16 (4) shall notify the defendant of the option to answer without appearing in court on the return date and the methods of answering permitted by the rule.

SECTION 38. 799.24 (1) of the statutes is amended to read:

799.24 (1) ENTRY OF JUDGMENT OR ORDER; NOTICE OF ENTRY THEREOF. When a judgment or an order is rendered, the judge, court commissioner or clerk shall immediately enter it in the case docket and note the date thereof which shall be the date of entry of judgment or order. The clerk, except in municipal and county forfeiture actions, shall mail a notice of entry of judgment to the parties or their attorneys at their last-known address within 3 5 days of its entry. Any such judgment shall be a docketed judgment for all purposes upon payment of the fee prescribed in s. 814.62 (3) (c). The clerk shall enter the docketed judgment in an appropriate judgment record.

SECTION 39. 799.24 (3) of the statutes is created to read:

799.24 (3) STIPULATED DISMISSAL. Prior to the entry of judgment, upon stipulation of the parties to a schedule for compliance with the stipulation, the court or court commissioner may enter a stipulated judgment of dismissal in lieu thereof. Any such judgment may be vacated without notice to the obligated party, and the unsatisfied portion thereof entered, upon application by the prevailing party and proof by affidavit of noncompliance with the terms of the stipulation.

SECTION 40. 799.25 (9) of the statutes is amended to read:

799.25 (9) JURY FEE. The fee prescribed in ~~s. ss.~~ 814.61 (4) and 814.62 (3) (e) for a jury if demanded under s. 799.21 (3).

SECTION 41. 799.25 (10) (intro.) of the statutes is repealed.

SECTION 42. 799.25 (10) (a) of the statutes is repealed and recreated to read:

799.25 (10) (a) Attorney fees as provided in s. 814.04 (1) and (6), except if the amount of attorney fees is otherwise specified by statute.

SECTION 43. 799.26 of the statutes is created to read:

**799.26 Money damages; disclosure of assets requested.** (1) When a judgment for money damages is entered under this chapter, the court or court commissioner shall order that the judgment debtor execute under penalty of contempt, and mail to the judgment creditor within 15 days of entry of judgment unless the judgment is sooner satisfied, a statement disclosing, as of the date of judgment, the debtor's name, residence address, employers and their addresses, any real property interests owned by the debtor, cash on hand,

financial institutions in which the judgment debtor has funds on deposit, and such other information as required by the schedules adopted under sub. (3).

(2) Failure to comply with an order under sub. (1) is punishable under ch. 785.

(3) The judicial conference shall adopt standard schedules for the disclosure required by sub. (1), which shall inform judgment debtors of the requirements of this section, the sanctions for nondisclosure or fraudulent misrepresentation, a general description of garnishment and execution, and information about the types of assets and income which are exempt from the claims of creditors. The judicial conference shall also adopt a standard form pleading invoking the contempt powers of the court under sub. (2), copies of which may be obtained by judgment creditors without charge from the clerk.

SECTION 44. 799.29 (1) (c) of the statutes is amended to read:

799.29 (1) (c) In other actions under this chapter, the notice of motion must be made within ~~90 days~~ 6 months after entry of judgment unless venue was improper under s. 799.11. The court shall order the reopening of a default judgment in an action where venue was improper upon motion or petition duly made within one year after the entry of judgment.

SECTION 45. 799.42 of the statutes is amended to read:

**799.42 Service and filing in eviction actions.** The complaint shall be served with the summons when personal or substituted service is had under s. 799.12 (1) and (2).

SECTION 46. 801.50 (5m) of the statutes is amended to read:

801.50 (5m) Venue of an action arising from a consumer credit transaction, as defined in s. 421.301 (10), shall be in any county specified in s. ~~425.504~~ 421.401 (1).

SECTION 47. 814.62 (3) (a) to (c) of the statutes are amended to read:

814.62 (3) SMALL CLAIMS ACTIONS. (a) In a small claims action under ch. 799, at the time of issuance of a summons or other process in a proceeding not commenced by a summons, the plaintiff shall pay to the clerk of court a fee of ~~\$12~~ \$17.

(b) If a counterclaim or cross complaint is filed, ~~which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim and which is beyond the limitations of s. 799.01~~ under s. 799.02 (1), the person filing the same shall pay a fee of \$35, and the entire matter shall be tried using the procedure under chs. 801 to 847 equal to the difference between the fee under s. 814.61 (1) (a) and the fee under par. (a).

(c) For all other services of the clerk in a small claims action, the clerk shall collect the fees prescribed in s. 814.61, ~~except that the fee for docketing a judgment in a small claims action shall be \$1.~~

SECTION 48. 814.62 (3) (d) of the statutes is amended to read:

814.62 (3) (d) Of the fees received by the clerk under pars. (a) and (b), the county treasurer shall pay ~~50%~~ 40% to the state treasurer for deposit in the general fund and shall retain the balance for the use of the county.

SECTION 49. 814.62 (3) (e) of the statutes is created to read:

814.62 (3) (e) If any party files a demand for a jury trial in any action under ch. 799, the party demanding the jury trial shall pay a fee equal to the difference between the fee under s. 814.61 (1) (a) and the fee under par. (a), in addition to the fee under s. 814.61 (4).

SECTION 50. 911.01 (4) (d) of the statutes is repealed and recreated to read:

911.01 (4) (d) *Small claims actions.* Proceedings under ch. 799, except jury trials.

SECTION 51. **Nonstatutory provisions.** Prior to July 1, 1988, the judicial council shall develop publications explaining the procedures to be followed in small claims actions. The publications may be adapted, produced and made available to litigants by clerks of circuit court.

SECTION 52. **Initial applicability.** This act first applies to actions commenced on the first day of the 3rd month beginning after the effective date of this SECTION.

SECTION 53. **Effective dates.** This act takes effect on the day after publication, except as follows:

(1) The treatment of section 799.09 (2) of the statutes takes effect on July 1, 1988.

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