

1 H.325

2 Introduced by Representative Clarkson of Woodstock

3 Referred to Committee on

4 Date:

5 Subject: Court procedure; small claims

6 Statement of purpose: This bill proposes a number of measures intended to
7 simplify and reduce the costs associated with small claims procedures. The
8 bill proposes to require that: (1) the plaintiff send a demand letter to the
9 defendant specifying the amount of compensation sought before filing a small
10 claims lawsuit in court; (2) the summons to the defendant include the date of
11 the initial court hearing, which must be at least 21 days after the date that the
12 summons is served; (3) the defendant be served with the summons and
13 complaint, although all subsequent transmissions of documents in the case may
14 be sent to the defendant by first class mail; and (4) the court enter default
15 judgment for the plaintiff if a defendant who has been served with notice of the
16 lawsuit fails to appear at the hearing.

17 An act relating to small claims procedures

18 It is hereby enacted by the General Assembly of the State of Vermont:

1 Sec. 1. 12 V.S.A. § 5532 is amended to read:

2 § 5532. PLEADINGS; FEES

3 (a) Procedure in the superior court shall be instituted without writ or
4 pleading other than a concise statement on a form provided by the clerk who
5 shall file the complaint in a docket kept for that purpose.

6 (b) Before bringing a claim under this chapter, the plaintiff shall send a
7 letter to the defendant by first class mail setting forth a demand for
8 compensation. The letter shall state the basis for the claim and the specific
9 amount of compensation the plaintiff is demanding.

10 Sec. 2. 12 V.S.A. § 5533 is amended to read:

11 § 5533. OTHER PROCEDURE

12 (a) The plaintiff shall supply to the clerk the following information:

13 (1) The plaintiff's name, residence address, and telephone number;

14 (2) Defendant's name and place of residence, and place of business or
15 employment; ~~and~~

16 (3) The nature and amount of the plaintiff's claim, giving dates and
17 other relevant information; and

18 (4) A copy of the demand letter the plaintiff mailed to the defendant
19 pursuant to subsection 5532(b) of this title.

20 (b)(1) The clerk shall reduce the information required in subsection (a) of
21 this section to writing in concise, nontechnical form in a docket kept for that

1 purpose, and shall also place it on a form which shall be attached to the
2 summons. The summons shall state the date of the initial court hearing, which
3 shall be at least 21 days after the date that the summons is served.

4 (2) The plaintiff shall cause personal service of the summons and
5 complaint to be made on the defendant pursuant to Rule 4(d) of the Vermont
6 Rules of Civil Procedure. All subsequent transmissions of documents relevant
7 to the case, including hearing notices and judgments, may be sent by the court
8 to the defendant by first class mail.

9 * * *

10 Sec. 3. 12 V.S.A. § 5535 is amended to read:

11 § 5535. JURY TRIAL; FAILURE TO APPEAR AT HEARING

12 (a) A plaintiff beginning a cause under the procedure waives a jury trial.
13 The defendant may have a hearing before the court under the procedure. He or
14 she may, prior to the day upon which he or she is notified to appear, file with
15 the court where the cause is pending a request for a trial by jury and his or her
16 affidavit that there are questions of fact in the cause requiring trial, with
17 specifications thereof, and that such is intended in good faith, together with a
18 jury fee of \$10.00 and, thereupon at the day set for hearing, trial by jury shall
19 be had as in ordinary cases.

20 (b) If a defendant who has been served with the summons and complaint
21 pursuant to subdivision 5533(b)(2) of this title fails to appear at the hearing,

1 the court shall enter default judgment against the defendant pursuant to Rule

2 3(c) of the Vermont Rules of Civil Procedure.

3 Sec. 4. EFFECTIVE DATE

4 This act shall take effect on July 1, 2011.