

CHAPTER 263—H. F. No. 172

An act relating to conciliation courts; amending Minnesota Statutes 1953, Sections 491.04, 491.06.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1953, Section 491.04, is amended to read:

491.04 **Jurisdiction, judgment.** *Subdivision 1.* In case the parties brought before the conciliation court, in the manner provided in this chapter, do not agree upon the judgment to be entered, then, in case the amount in controversy, whether the claim of the plaintiff or a counter-claim on the part of the defendant, exceeds the sum of \$100, and the judge is satisfied the counter-claim is in good faith, the case shall be forthwith dismissed and dropped from the docket, without prejudice, but if the amount involved in controversy be \$100 or less, or if the judge is of the opinion that the counter-claim, if any, therein in excess of \$100 is not in good faith, he shall retain jurisdiction and proceed summarily to hear and determine the cause and to enter judgment on his docket. The conclusion of the judge as to the good faith of any counter-claim shall be final and conclusive on all parties for the purposes of the jurisdiction of the court. In case such judgment is not removed, by demand of either party, to the municipal court within *ten* days after the entry thereof, as provided in this chapter, and the judgment remains unsatisfied, the judgment, on order of the judge shall be docketed in the municipal court by the clerk and shall thereupon be, and be enforced as, the judgment of the municipal court, or the judge may retain jurisdiction for the collection and satisfaction of the judgment by payment to him, but no execution shall issue from the conciliation court.

Subd. 2. By its terms, the judgment may provide for its satisfaction by payment into court, either in a lump sum or in instalments and in such amounts and at such times as to the judge may under the circumstances of the case seem just and reasonable.

Subd. 3. The conciliation court shall be subject to the direction of the judge thereof, but the judges of the municipal court may prescribe rules as to procedure, methods of producing evidences, and general conduct of the case, and the trial thereof, under the provisions of this section, and for carrying out all the provisions of this chapter.

Sec. 2. Minnesota Statutes 1953, Section 491.06, is amended to read:

491.06 Appeal. *Subdivision 1.* Any person aggrieved by the judgment rendered by the conciliation judge, under section 491.04, and who is entitled to a jury trial under the constitution, may have the case removed to the municipal court for trial by jury, but no case shall be so removed unless within *ten* days after such judgment is rendered, and after the clerk shall have mailed notice of the entry of the judgment to each of the parties thereto, which notice shall be mailed immediately and shall specify the day on which the time for removal of the cause will expire, the party so removing same shall:

(1) File with the judge a bond executed by the party demanding the removal, his agent or attorney, to the adverse party, in a sum sufficient to secure the amount of such judgment, and costs in such municipal court, with sufficient surety to be approved by the conciliation judge, conditioned that the party so removing same shall prosecute the case with effect in said municipal court and abide the order of the court therein and pay any judgment that may be rendered against him therein;

(2) File with the conciliation judge an affidavit of the remover, his agent or attorney, stating that the removal is made in good faith and not for the purpose of delay;

(3) Serve on the opposite party a written demand of such removal in the manner now provided by law for the service of summons in the municipal court and file with the judge such original demand, with proof of service thereof; such original demand or proof of service shall show the office address of the attorney of each party, that has such attorney, and the residence address of the party so removing, if he has no attorney, and the residence address of each of the opposite parties who is served with such notice; and

(4) Pay to the conciliation judge the sum of \$5 for costs and jury fee in the municipal court.

Subd. 2. Within three days after all of these things have been done the conciliation judge shall deposit the \$5 with the clerk of the municipal court and file with the clerk all of the papers, together with a copy of the judgment and a certificate setting out in general terms the claims of the parties thereto before him and the issues tried, and the case shall be tried in the municipal court upon the issues so certified or upon such others as may be stipulated by the parties or ordered by the municipal court or such issues as either party shall demand, in writing, at the opening of the trial, and a copy of which he has served on the opposite party at least five days before the trial, with a notice that such demand will be made.

Subd. 3. When these papers are so filed in the municipal court the judgment shall be there pending and shall be by the clerk set down for trial on the first jury trial day at the foot of the calendar of that day, occurring not less than ten days after the papers are so filed in the municipal court, and shall stand for trial without service of any notice of trial or note of issue whatever, except that at least nine days prior to the trial day the clerk shall mail to each party and each attorney in the case whose address appears in the demand for removal or whose address is known, notice that the case is so set down for trial.

Subd. 4. If the judgment creditor remove the case and the final judgment rendered is not increased in his favor, at least \$10 over the former judgment, he shall recover no costs in the municipal court, and there shall be entered against him in the judgment an attorney's fee in favor of the adverse party of \$10, either by reducing the judgment in his favor in that amount; or, if the amount found in his favor be less than \$10, by an affirmative judgment against him for the difference. If the judgment debtor remove the case and final judgment is rendered against him, he shall pay the adverse party, in addition to the amount and costs, an attorney's fee to be entered and included in the judgment, as follows: \$5, in case the judgment so removed was \$5, or less, and the final judgment, aside from costs, is not reduced from the judgment at least \$3; \$10, in case the judgment so removed was \$10 or less, and the final judgment, aside from costs, is not reduced at least \$5; \$15, in case the judgment so removed was more than \$10, and the final judgment, aside from costs, is not reduced at least \$10. There shall be no appeal from the municipal court on any action brought there on removal from the conciliation court, but in such case the judgment of the municipal court shall be final.

Approved March 30, 1955.

CHAPTER 264—H. F. No. 260

[Not Coded]

An act relating to community hospitals in certain cities of the fourth class and authorizing the levying of taxes therefor; amending Laws 1951, Chapter 244, Section 1, as amended.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Laws 1951, Chapter 244, Section 1, as