SENATE BILL 5939

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State of Washington   **56th Legislature**   **1999 Regular Session**

By Senators Johnson, T. Sheldon, Oke and Roach

Read first time 02/17/1999.   Referred to Committee on Judiciary.

1   AN ACT Relating to collection of small claims court judgments by
2 collection agencies; amending RCW 12.40.105 and 12.40.110; and adding
3 a new section to chapter 12.40 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5   NEW SECTION. **Sec. 1.** A new section is added to chapter 12.40 RCW
6 to read as follows:
7   (1) If the losing party fails to pay the judgment within thirty
8 days, the prevailing party may retain at any time thereafter, without
9 regard to whether or not the judgment has been certified, a collection
10 agency licensed under chapter 19.16 RCW for the purpose of collecting
11 the monetary judgment from the judgment debtor.
12   (2) If a prevailing party retains a collection agency, the
13 collection agency must submit an affidavit attesting to the actual
14 amount of the collection agency's fee. Upon submission, the judgment
15 shall be increased by any reasonable collection fee of up to fifty
16 percent of the outstanding judgment including all court costs without
17 regard to the jurisdictional limits on the small claims department.
18   (3) No judgment may be assigned to a collection agency unless: (a)
19 There has been an attempt to advise the debtor (i) of the existence of

1 the judgment, and (ii) that the judgment may be assigned to a
2 collection agency for collection if the judgment is not paid; and (b)
3 at least thirty days have elapsed from the time the notice was
4 attempted.

5   **Sec. 2.** RCW 12.40.105 and 1998 c 52 s 5 are each amended to read
6 as follows:
7   (1) If the losing party fails to pay the judgment within thirty
8 days or within the period otherwise ordered by the court, the judgment
9 shall be increased by: ((~~(1)~~)) (a) An amount sufficient to cover costs
10 of certification of the judgment under RCW 12.40.110; ((~~and (2)~~)) (b)
11 the amount specified in RCW 36.18.012(2); and (c) any reasonable fee of
12 up to fifty percent of the amount of the judgment, including all court
13 costs, when the judgment creditor retains a collection agency licensed
14 under chapter 19.16 RCW, without regard to the jurisdictional limits on
15 the small claims department.
16   (2) If the judgment creditor intends to retain a collection agency
17 and thereby increase the judgment under subsection (1)(c) of this
18 section, the collection agency must submit an affidavit attesting to
19 the actual amount of the collection agency's fee.

20   **Sec. 3.** RCW 12.40.110 and 1998 c 52 s 6 are each amended to read
21 as follows:
22   (1) If the losing party fails to pay the judgment according to the
23 terms and conditions thereof within thirty days or is in arrears on any
24 payment plan, and the prevailing party so notifies the court, the court
25 shall certify the judgment in substantially the following form:

26   Washington.
27   In the District Court of . . . . . . County.

28 . . . . Plaintiff,
29   vs.
30 . . . . Defendant.

31   In the Small Claims Department.

32   This is to certify that: (1) In a certain action on the . . . .
33 day of . . . . . 19. . ., wherein . . . . was plaintiff and
34 . . . . defendant, jurisdiction of said defendant having been
35 had by personal service (or otherwise) as provided by law, judgment was

1 entered against . . . . . . in the sum of . . . . . . dollars; (2) the
2 judgment has not been paid within ((~~twenty~~)) <u>thirty</u> days or the period
3 otherwise ordered by the court; and (3) pursuant to RCW 12.40.105, the
4 amount of the judgment is hereby increased by any costs of
5 certification under this section<u>, any reasonable collection agency</u>
6 <u>fees,</u> and the amount specified in RCW 36.18.012(2).
7   Witness my hand this . . . . day of . . . ., 19. . . .
8   . . . .
9   Clerk of the Small Claims Department.

10   (2) The clerk shall forthwith enter the judgment transcript on the
11 judgment docket of the district court; and thereafter garnishment,
12 execution, and other process on execution provided by law may issue
13 thereon, as in other judgments of district courts.
14   (3) Transcripts of such judgments may be filed and entered in
15 judgment lien dockets in superior courts with like effect as in other
16 cases.

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