
SUBSTITUTE HOUSE BILL 1793

State of Washington 57th Legislature 2001 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Hatfield and McDermott)

Read first time . Referred to Committee on .

1 AN ACT Relating to court filing fees; amending RCW 36.18.012,
2 36.18.016, 36.18.025, 40.14.027, 41.50.136, 46.87.370, 50.20.190,
3 50.24.115, 51.24.060, 51.48.140, 82.32.210, 82.36.047, and 82.38.235;
4 and reenacting and amending RCW 51.32.240.

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

6 **Sec. 1.** RCW 36.18.012 and 1999 c 42 s 634 are each amended to read
7 as follows:

8 (1) Revenue collected under this section is subject to division
9 with the state for deposit in the public safety and education account
10 under RCW 36.18.025.

11 (2) The party filing a transcript or abstract of judgment or
12 verdict from a United States court held in this state, or from the
13 superior court of another county or from a district court in the county
14 of issuance, shall pay at the time of filing a fee of fifteen dollars.

15 (3) ~~((For the filing of a tax warrant by the department of revenue
16 of the state of Washington, a fee of five dollars must be paid.~~

17 ~~(4))~~) The clerk shall collect a fee of twenty dollars for: Filing
18 a paper not related to or a part of a proceeding, civil or criminal, or

1 a probate matter, required or permitted to be filed in the clerk's
2 office for which no other charge is provided by law.

3 ~~((+5))~~ (4) If the defendant serves or files an answer to an
4 unlawful detainer complaint under chapter 59.18 or 59.20 RCW, the
5 plaintiff shall pay before proceeding with the unlawful detainer action
6 eighty dollars.

7 ~~((+6))~~ (5) For a restrictive covenant for filing a petition to
8 strike discriminatory provisions in real estate under RCW 49.60.227 a
9 fee of twenty dollars must be charged.

10 ~~((+7))~~ (6) A fee of twenty dollars must be charged for filing a
11 will only, when no probate of the will is contemplated.

12 ~~((+8))~~ (7) A fee of two dollars must be charged for filing a
13 petition, written agreement, or written memorandum in a nonjudicial
14 probate dispute under RCW 11.96A.220.

15 ~~((+9))~~ (8) A fee of thirty-five dollars must be charged for filing
16 a petition regarding a common law lien under RCW 60.70.060.

17 ~~((+10))~~ (9) For certification of delinquent taxes by a county
18 treasurer under RCW 84.64.190, a fee of five dollars must be charged.

19 (10) For the filing of a tax warrant for unpaid taxes or
20 overpayment of benefits by any agency of the state of Washington, a fee
21 of five dollars on or after the effective date of this act, and for the
22 filing of such a tax warrant or overpayment of benefits on or after
23 July 1, 2003, a fee of twenty dollars, of which forty-six percent of
24 the first five dollars is directed to the public safety and education
25 account established under RCW 43.08.250.

26 **Sec. 2.** RCW 36.18.016 and 2000 c 170 s 1 are each amended to read
27 as follows:

28 (1) Revenue collected under this section is not subject to division
29 under RCW 36.18.025 or 27.24.070.

30 (2) For the filing of a petition for modification of a decree of
31 dissolution or paternity, within the same case as the original action,
32 a fee of twenty dollars must be paid.

33 (3)(a) The party making a demand for a jury of six in a civil
34 action shall pay, at the time, a fee of one hundred twenty-five
35 dollars; if the demand is for a jury of twelve, a fee of two hundred
36 fifty dollars. If, after the party demands a jury of six and pays the
37 required fee, any other party to the action requests a jury of twelve,

1 an additional one hundred twenty-five dollar fee will be required of
2 the party demanding the increased number of jurors.

3 (b) Upon conviction in criminal cases a jury demand charge of fifty
4 dollars for a jury of six, or one hundred dollars for a jury of twelve
5 may be imposed as costs under RCW 10.46.190.

6 (4) For preparing, transcribing, or certifying an instrument on
7 file or of record in the clerk's office, with or without seal, for the
8 first page or portion of the first page, a fee of two dollars, and for
9 each additional page or portion of a page, a fee of one dollar must be
10 charged. For authenticating or exemplifying an instrument, a fee of
11 one dollar for each additional seal affixed must be charged.

12 (5) For executing a certificate, with or without a seal, a fee of
13 two dollars must be charged.

14 (6) For a garnishee defendant named in an affidavit for garnishment
15 and for a writ of attachment, a fee of twenty dollars must be charged.

16 (7) For approving a bond, including justification on the bond, in
17 other than civil actions and probate proceedings, a fee of two dollars
18 must be charged.

19 (8) For the issuance of a certificate of qualification and a
20 certified copy of letters of administration, letters testamentary, or
21 letters of guardianship, there must be a fee of two dollars.

22 (9) For the preparation of a passport application, the clerk may
23 collect an execution fee as authorized by the federal government.

24 (10) For clerk's (~~special~~) services such as processing ex parte
25 orders (~~by mail~~), performing historical searches, compiling
26 statistical reports, and conducting exceptional record searches, the
27 clerk may collect a fee not to exceed twenty dollars per hour or
28 portion of an hour.

29 (11) For duplicated recordings of court's proceedings there must be
30 a fee of ten dollars for each audio tape and twenty-five dollars for
31 each video tape.

32 (12) For the filing of oaths and affirmations under chapter 5.28
33 RCW, a fee of twenty dollars must be charged.

34 (13) For filing a disclaimer of interest under RCW 11.86.031(4), a
35 fee of two dollars must be charged.

36 (14) For registration of land titles, Torrens Act, under RCW
37 65.12.780, a fee of five dollars must be charged.

1 (15) For the issuance of extension of judgment under RCW 6.17.020
2 and chapter 9.94A RCW, a fee of one hundred ten dollars must be
3 charged.

4 (16) A facilitator surcharge of ten dollars must be charged as
5 authorized under RCW 26.12.240.

6 (17) For filing a water rights statement under RCW 90.03.180, a fee
7 of twenty-five dollars must be charged.

8 ~~(18) ((For filing a warrant for overpayment of state retirement
9 systems benefits under chapter 41.50 RCW, a fee of five dollars shall
10 be charged pursuant to RCW 41.50.136.~~

11 ~~(19))~~ A service fee of three dollars for the first page and one
12 dollar for each additional page must be charged for receiving faxed
13 documents, pursuant to Washington state rules of court, general rule
14 17.

15 ~~((20))~~ (19) For preparation of clerk's papers under RAP 9.7, a
16 fee of fifty cents per page must be charged.

17 ~~((21))~~ (20) For copies and reports produced at the local level as
18 permitted by RCW 2.68.020 and supreme court policy, a variable fee must
19 be charged.

20 ~~((22))~~ (21) Investment service charge and earnings under RCW
21 36.48.090 must be charged.

22 ~~((23))~~ (22) Costs for nonstatutory services rendered by clerk by
23 authority of local ordinance or policy must be charged.

24 ~~((24))~~ (23) For filing a request for mandatory arbitration, a fee
25 may be assessed against the party filing a statement of arbitrability
26 not to exceed one hundred twenty dollars as established by authority of
27 local ordinance and approved by a vote of the people if it is
28 determined by a court of competent jurisdiction that such a vote is
29 required by chapter 1, Laws of 2000 (Initiative Measure No. 695). This
30 charge shall be used solely to offset the cost of the mandatory
31 arbitration program.

32 ~~((25))~~ (24) For filing a request for trial de novo of an
33 arbitration award, a fee not to exceed two hundred fifty dollars as
34 established by authority of local ordinance must be charged.

35 **Sec. 3.** RCW 36.18.025 and 1992 c 54 s 2 are each amended to read
36 as follows:

37 Forty-six percent of the money received from filing fees paid
38 pursuant to RCW 36.18.020, except those collected for the filing of

1 warrants for unpaid taxes or overpayments by state agencies as outlined
2 in RCW 36.18.012(10), shall be transmitted by the county treasurer each
3 month to the state treasurer for deposit in the public safety and
4 education account established under RCW 43.08.250.

5 **Sec. 4.** RCW 40.14.027 and 1996 c 245 s 4 are each amended to read
6 as follows:

7 State agencies shall collect a surcharge of twenty dollars from the
8 judgment debtor upon the satisfaction of a warrant filed in superior
9 court for unpaid taxes or liabilities. The surcharge is imposed on the
10 judgment debtor in the form of a penalty in addition to the filing fee
11 provided in RCW 36.18.012(~~((3))~~) (10). The surcharge revenue shall be
12 transmitted to the state treasurer for deposit in the archives and
13 records management account.

14 Surcharge revenue deposited in the archives and records management
15 account shall be expended by the secretary of state exclusively for
16 disaster recovery, essential records protection services, and records
17 management training for local government agencies by the division of
18 archives and records management. The secretary of state shall, with
19 local government representatives, establish a committee to advise the
20 state archivist on the local government archives and records management
21 program.

22 **Sec. 5.** RCW 41.50.136 and 1996 c 56 s 2 are each amended to read
23 as follows:

24 Whenever a notice of determination of liability becomes conclusive
25 and final under RCW 41.50.135, the director, upon giving at least
26 twenty days notice by certified mail return receipt requested to the
27 individual's last known address of the intended action, may file with
28 the superior court clerk of any county within the state a warrant in
29 the amount of the notice of determination of liability plus a filing
30 fee (~~((of five dollars payable))~~) under RCW (~~((36.18.016))~~) 36.18.012(10).
31 The clerk of the county where the warrant is filed shall immediately
32 designate a superior court cause number for the warrant, and the clerk
33 shall cause to be entered in the judgment docket under the superior
34 court cause number assigned to the warrant, the name of the person
35 mentioned in the warrant, the amount of the notice of determination of
36 liability, and the date when the warrant was filed. The amount of the
37 warrant as docketed shall become a lien upon the title to, and any

1 interest in, all real and personal property of the person against whom
2 the warrant is issued, the same as a judgment in a civil case duly
3 docketed in the office of such clerk. A copy of the warrant shall be
4 mailed to the person mentioned in the warrant by certified mail to the
5 person's last known address within five days of its filing with the
6 clerk.

7 **Sec. 6.** RCW 46.87.370 and 1987 c 244 s 50 are each amended to read
8 as follows:

9 Whenever any assessment has become final in accordance with this
10 chapter, the department may file with the clerk of any county within
11 this state a warrant in the amount of fees, taxes, penalties, interest,
12 and a filing fee (~~(of five dollars)~~) under RCW 36.18.012(10). The
13 clerk of the county in which the warrant is filed shall immediately
14 designate a superior court cause number for the warrant, and the clerk
15 shall cause to be entered in the judgment docket under the superior
16 court cause number assigned to the warrant the name of the delinquent
17 owner of proportionally registered vehicles mentioned in the warrant,
18 the amount of the fees, taxes, penalties, interest, and filing fee, and
19 the date when the warrant was filed. The aggregate amount of the
20 warrant as docketed constitutes a lien upon the title to, and interest
21 in, all real and personal property of the named person against whom the
22 warrant is issued, the same as a judgment in a civil case duly docketed
23 in the office of the clerk. A warrant so docketed is sufficient to
24 support the issuance of writs of execution and writs of garnishment in
25 favor of the state in the manner provided by law in the case of civil
26 judgment wholly or partially unsatisfied. The clerk of the court is
27 entitled to a filing fee (~~(of five dollars)~~) under RCW 36.18.012(10),
28 which shall be added to the amount of the warrant.

29 **Sec. 7.** RCW 50.20.190 and 1995 c 90 s 1 are each amended to read
30 as follows:

31 (1) An individual who is paid any amount as benefits under this
32 title to which he or she is not entitled shall, unless otherwise
33 relieved pursuant to this section, be liable for repayment of the
34 amount overpaid. The department shall issue an overpayment assessment
35 setting forth the reasons for and the amount of the overpayment. The
36 amount assessed, to the extent not collected, may be deducted from any
37 future benefits payable to the individual: PROVIDED, That in the

1 absence of a back pay award, a settlement affecting the allowance of
2 benefits, fraud, misrepresentation, or willful nondisclosure, every
3 determination of liability shall be mailed or personally served not
4 later than two years after the close of or final payment made on the
5 individual's applicable benefit year for which the purported
6 overpayment was made, whichever is later, unless the merits of the
7 claim are subjected to administrative or judicial review in which event
8 the period for serving the determination of liability shall be extended
9 to allow service of the determination of liability during the six-month
10 period following the final decision affecting the claim.

11 (2) The commissioner may waive an overpayment if the commissioner
12 finds that (~~said~~) the overpayment was not the result of fraud,
13 misrepresentation, willful nondisclosure, or fault attributable to the
14 individual and that the recovery thereof would be against equity and
15 good conscience: PROVIDED, HOWEVER, That the overpayment so waived
16 shall be charged against the individual's applicable entitlement for
17 the eligibility period containing the weeks to which the overpayment
18 was attributed as though such benefits had been properly paid.

19 (3) Any assessment herein provided shall constitute a determination
20 of liability from which an appeal may be had in the same manner and to
21 the same extent as provided for appeals relating to determinations in
22 respect to claims for benefits: PROVIDED, That an appeal from any
23 determination covering overpayment only shall be deemed to be an appeal
24 from the determination which was the basis for establishing the
25 overpayment unless the merits involved in the issue set forth in such
26 determination have already been heard and passed upon by the appeal
27 tribunal. If no such appeal is taken to the appeal tribunal by the
28 individual within thirty days of the delivery of the notice of
29 determination of liability, or within thirty days of the mailing of the
30 notice of determination, whichever is the earlier, (~~said~~) the
31 determination of liability shall be deemed conclusive and final.
32 Whenever any such notice of determination of liability becomes
33 conclusive and final, the commissioner, upon giving at least twenty
34 days notice by certified mail return receipt requested to the
35 individual's last known address of the intended action, may file with
36 the superior court clerk of any county within the state a warrant in
37 the amount of the notice of determination of liability plus a filing
38 fee (~~of five dollars~~) under RCW 36.18.012(10). The clerk of the
39 county where the warrant is filed shall immediately designate a

1 superior court cause number for the warrant, and the clerk shall cause
2 to be entered in the judgment docket under the superior court cause
3 number assigned to the warrant, the name of the person(s) mentioned in
4 the warrant, the amount of the notice of determination of liability,
5 and the date when the warrant was filed. The amount of the warrant as
6 docketed shall become a lien upon the title to, and any interest in,
7 all real and personal property of the person(s) against whom the
8 warrant is issued, the same as a judgment in a civil case duly docketed
9 in the office of such clerk. A warrant so docketed shall be sufficient
10 to support the issuance of writs of execution and writs of garnishment
11 in favor of the state in the manner provided by law for a civil
12 judgment. A copy of the warrant shall be mailed to the person(s)
13 mentioned in the warrant by certified mail to the person's last known
14 address within five days of its filing with the clerk.

15 (4) On request of any agency which administers an employment
16 security law of another state, the United States, or a foreign
17 government and which has found in accordance with the provisions of
18 such law that a claimant is liable to repay benefits received under
19 such law, the commissioner may collect the amount of such benefits from
20 the claimant to be refunded to the agency. In any case in which under
21 this section a claimant is liable to repay any amount to the agency of
22 another state, the United States, or a foreign government, such amounts
23 may be collected without interest by civil action in the name of the
24 commissioner acting as agent for such agency if the other state, the
25 United States, or the foreign government extends such collection rights
26 to the employment security department of the state of Washington, and
27 provided that the court costs be paid by the governmental agency
28 benefiting from such collection.

29 (5) Any employer who is a party to a back pay award or settlement
30 due to loss of wages shall, within thirty days of the award or
31 settlement, report to the department the amount of the award or
32 settlement, the name and social security number of the recipient of the
33 award or settlement, and the period for which it is awarded. When an
34 individual has been awarded or receives back pay, for benefit purposes
35 the amount of the back pay shall constitute wages paid in the period
36 for which it was awarded. For contribution purposes, the back pay
37 award or settlement shall constitute wages paid in the period in which
38 it was actually paid. The following requirements shall also apply:

1 (a) The employer shall reduce the amount of the back pay award or
2 settlement by an amount determined by the department based upon the
3 amount of unemployment benefits received by the recipient of the award
4 or settlement during the period for which the back pay award or
5 settlement was awarded;

6 (b) The employer shall pay to the unemployment compensation fund,
7 in a manner specified by the commissioner, an amount equal to the
8 amount of such reduction;

9 (c) The employer shall also pay to the department any taxes due for
10 unemployment insurance purposes on the entire amount of the back pay
11 award or settlement notwithstanding any reduction made pursuant to (a)
12 of this subsection;

13 (d) If the employer fails to reduce the amount of the back pay
14 award or settlement as required in (a) of this subsection, the
15 department shall issue an overpayment assessment against the recipient
16 of the award or settlement in the amount that the back pay award or
17 settlement should have been reduced; and

18 (e) If the employer fails to pay to the department an amount equal
19 to the reduction as required in (b) of this subsection, the department
20 shall issue an assessment of liability against the employer which shall
21 be collected pursuant to the procedures for collection of assessments
22 provided herein and in RCW 50.24.110.

23 (6) When an individual fails to repay an overpayment assessment
24 that is due and fails to arrange for satisfactory repayment terms, the
25 commissioner shall impose an interest penalty of one percent per month
26 of the outstanding balance. Interest shall accrue immediately on
27 overpayments assessed pursuant to RCW 50.20.070 and shall be imposed
28 when the assessment becomes final. For any other overpayment, interest
29 shall accrue when the individual has missed two or more of their
30 monthly payments either partially or in full. The interest penalty
31 shall be used to fund detection and recovery of overpayment and
32 collection activities.

33 **Sec. 8.** RCW 50.24.115 and 1983 1st ex.s. c 23 s 16 are each
34 amended to read as follows:

35 Whenever any order and notice of assessment or jeopardy assessment
36 shall have become final in accordance with the provisions of this title
37 the commissioner may file with the clerk of any county within the state
38 a warrant in the amount of the notice of assessment plus interest,

1 penalties, and a filing fee (~~(of five dollars)~~) under RCW
2 36.18.012(10). The clerk of the county wherein the warrant is filed
3 shall immediately designate a superior court cause number for such
4 warrant, and the clerk shall cause to be entered in the judgment docket
5 under the superior court cause number assigned to the warrant, the name
6 of the employer mentioned in the warrant, the amount of the tax,
7 interest, penalties, and filing fee and the date when such warrant was
8 filed. The aggregate amount of such warrant as docketed shall become
9 a lien upon the title to, and interest in all real and personal
10 property of the employer against whom the warrant is issued, the same
11 as a judgment in a civil case duly docketed in the office of such
12 clerk. Such warrant so docketed shall be sufficient to support the
13 issuance of writs of execution and writs of garnishment in favor of the
14 state in the manner provided by law in the case of civil judgment,
15 wholly or partially unsatisfied. The clerk of the court shall be
16 entitled to a filing fee (~~(of five dollars)~~) under RCW 36.18.012(10),
17 which shall be added to the amount of the warrant, and charged by the
18 commissioner to the employer or employing unit. A copy of the warrant
19 shall be mailed to the employer or employing unit by certified mail to
20 his last known address within five days of filing with the clerk.

21 **Sec. 9.** RCW 51.24.060 and 1995 c 199 s 4 are each amended to read
22 as follows:

23 (1) If the injured worker or beneficiary elects to seek damages
24 from the third person, any recovery made shall be distributed as
25 follows:

26 (a) The costs and reasonable attorneys' fees shall be paid
27 proportionately by the injured worker or beneficiary and the department
28 and/or self-insurer: PROVIDED, That the department and/or self-insurer
29 may require court approval of costs and attorneys' fees or may petition
30 a court for determination of the reasonableness of costs and attorneys'
31 fees;

32 (b) The injured worker or beneficiary shall be paid twenty-five
33 percent of the balance of the award: PROVIDED, That in the event of a
34 compromise and settlement by the parties, the injured worker or
35 beneficiary may agree to a sum less than twenty-five percent;

36 (c) The department and/or self-insurer shall be paid the balance of
37 the recovery made, but only to the extent necessary to reimburse the
38 department and/or self-insurer for benefits paid;

1 (i) The department and/or self-insurer shall bear its proportionate
2 share of the costs and reasonable attorneys' fees incurred by the
3 worker or beneficiary to the extent of the benefits paid under this
4 title: PROVIDED, That the department's and/or self-insurer's
5 proportionate share shall not exceed one hundred percent of the costs
6 and reasonable attorneys' fees;

7 (ii) The department's and/or self-insurer's proportionate share of
8 the costs and reasonable attorneys' fees shall be determined by
9 dividing the gross recovery amount into the benefits paid amount and
10 multiplying this percentage times the costs and reasonable attorneys'
11 fees incurred by the worker or beneficiary;

12 (iii) The department's and/or self-insurer's reimbursement share
13 shall be determined by subtracting their proportionate share of the
14 costs and reasonable attorneys' fees from the benefits paid amount;

15 (d) Any remaining balance shall be paid to the injured worker or
16 beneficiary; and

17 (e) Thereafter no payment shall be made to or on behalf of a worker
18 or beneficiary by the department and/or self-insurer for such injury
19 until the amount of any further compensation and benefits shall equal
20 any such remaining balance minus the department's and/or self-insurer's
21 proportionate share of the costs and reasonable attorneys' fees in
22 regards to the remaining balance. This proportionate share shall be
23 determined by dividing the gross recovery amount into the remaining
24 balance amount and multiplying this percentage times the costs and
25 reasonable attorneys' fees incurred by the worker or beneficiary.
26 Thereafter, such benefits shall be paid by the department and/or self-
27 insurer to or on behalf of the worker or beneficiary as though no
28 recovery had been made from a third person.

29 (2) The recovery made shall be subject to a lien by the department
30 and/or self-insurer for its share under this section.

31 (3) The department or self-insurer has sole discretion to
32 compromise the amount of its lien. In deciding whether or to what
33 extent to compromise its lien, the department or self-insurer shall
34 consider at least the following:

35 (a) The likelihood of collection of the award or settlement as may
36 be affected by insurance coverage, solvency, or other factors relating
37 to the third person;

38 (b) Factual and legal issues of liability as between the injured
39 worker or beneficiary and the third person. Such issues include but

1 are not limited to possible contributory negligence and novel theories
2 of liability; and

3 (c) Problems of proof faced in obtaining the award or settlement.

4 (4) In an action under this section, the self-insurer may act on
5 behalf and for the benefit of the department to the extent of any
6 compensation and benefits paid or payable from state funds.

7 (5) It shall be the duty of the person to whom any recovery is paid
8 before distribution under this section to advise the department or
9 self-insurer of the fact and amount of such recovery, the costs and
10 reasonable attorneys' fees associated with the recovery, and to
11 distribute the recovery in compliance with this section.

12 (6) The distribution of any recovery made by award or settlement of
13 the third party action shall be confirmed by department order, served
14 by registered or certified mail, and shall be subject to chapter 51.52
15 RCW. In the event the order of distribution becomes final under
16 chapter 51.52 RCW, the director or the director's designee may file
17 with the clerk of any county within the state a warrant in the amount
18 of the sum representing the unpaid lien plus interest accruing from the
19 date the order became final. The clerk of the county in which the
20 warrant is filed shall immediately designate a superior court cause
21 number for such warrant and the clerk shall cause to be entered in the
22 judgment docket under the superior court cause number assigned to the
23 warrant, the name of such worker or beneficiary mentioned in the
24 warrant, the amount of the unpaid lien plus interest accrued and the
25 date when the warrant was filed. The amount of such warrant as
26 docketed shall become a lien upon the title to and interest in all real
27 and personal property of the injured worker or beneficiary against whom
28 the warrant is issued, the same as a judgment in a civil case docketed
29 in the office of such clerk. The sheriff shall then proceed in the
30 same manner and with like effect as prescribed by law with respect to
31 execution or other process issued against rights or property upon
32 judgment in the superior court. Such warrant so docketed shall be
33 sufficient to support the issuance of writs of garnishment in favor of
34 the department in the manner provided by law in the case of judgment,
35 wholly or partially unsatisfied. The clerk of the court shall be
36 entitled to a filing fee (~~of five dollars~~) under RCW 36.18.012(10),
37 which shall be added to the amount of the warrant. A copy of such
38 warrant shall be mailed to the injured worker or beneficiary within
39 three days of filing with the clerk.

1 (7) The director, or the director's designee, may issue to any
2 person, firm, corporation, municipal corporation, political subdivision
3 of the state, public corporation, or agency of the state, a notice and
4 order to withhold and deliver property of any kind if he or she has
5 reason to believe that there is in the possession of such person, firm,
6 corporation, municipal corporation, political subdivision of the state,
7 public corporation, or agency of the state, property which is due,
8 owing, or belonging to any worker or beneficiary upon whom a warrant
9 has been served by the department for payments due to the state fund.
10 The notice and order to withhold and deliver shall be served by the
11 sheriff of the county or by the sheriff's deputy; by certified mail,
12 return receipt requested; or by any authorized representatives of the
13 director. Any person, firm, corporation, municipal corporation,
14 political subdivision of the state, public corporation, or agency of
15 the state upon whom service has been made shall answer the notice
16 within twenty days exclusive of the day of service, under oath and in
17 writing, and shall make true answers to the matters inquired of in the
18 notice and order to withhold and deliver. In the event there is in the
19 possession of the party named and served with such notice and order,
20 any property which may be subject to the claim of the department, such
21 property shall be delivered forthwith to the director or the director's
22 authorized representative upon demand. If the party served and named
23 in the notice and order fails to answer the notice and order within the
24 time prescribed in this section, the court may, after the time to
25 answer such order has expired, render judgment by default against the
26 party named in the notice for the full amount claimed by the director
27 in the notice together with costs. In the event that a notice to
28 withhold and deliver is served upon an employer and the property found
29 to be subject thereto is wages, the employer may assert in the answer
30 to all exemptions provided for by chapter 6.27 RCW to which the wage
31 earner may be entitled.

32 **Sec. 10.** RCW 51.32.240 and 1999 c 396 s 1 and 1999 c 119 s 1 are
33 each reenacted and amended to read as follows:

34 (1) Whenever any payment of benefits under this title is made
35 because of clerical error, mistake of identity, innocent
36 misrepresentation by or on behalf of the recipient thereof mistakenly
37 acted upon, or any other circumstance of a similar nature, all not
38 induced by fraud, the recipient thereof shall repay it and recoupment

1 may be made from any future payments due to the recipient on any claim
2 with the state fund or self-insurer, as the case may be. The
3 department or self-insurer, as the case may be, must make claim for
4 such repayment or recoupment within one year of the making of any such
5 payment or it will be deemed any claim therefor has been waived. The
6 director, pursuant to rules adopted in accordance with the procedures
7 provided in the administrative procedure act, chapter 34.05 RCW, may
8 exercise his discretion to waive, in whole or in part, the amount of
9 any such timely claim where the recovery would be against equity and
10 good conscience.

11 (2) Whenever the department or self-insurer fails to pay benefits
12 because of clerical error, mistake of identity, or innocent
13 misrepresentation, all not induced by recipient fraud, the recipient
14 may request an adjustment of benefits to be paid from the state fund or
15 by the self-insurer, as the case may be, subject to the following:

16 (a) The recipient must request an adjustment in benefits within one
17 year from the date of the incorrect payment or it will be deemed any
18 claim therefore has been waived.

19 (b) The recipient may not seek an adjustment of benefits because of
20 adjudicator error. "Adjudicator error" includes the failure to
21 consider information in the claim file, failure to secure adequate
22 information, or an error in judgment.

23 (3) Whenever the department issues an order rejecting a claim for
24 benefits paid pursuant to RCW 51.32.190 or 51.32.210, after payment for
25 temporary disability benefits has been paid by a self-insurer pursuant
26 to RCW 51.32.190(3) or by the department pursuant to RCW 51.32.210, the
27 recipient thereof shall repay such benefits and recoupment may be made
28 from any future payments due to the recipient on any claim with the
29 state fund or self-insurer, as the case may be. The director, under
30 rules adopted in accordance with the procedures provided in the
31 administrative procedure act, chapter 34.05 RCW, may exercise
32 discretion to waive, in whole or in part, the amount of any such
33 payments where the recovery would be against equity and good
34 conscience.

35 (4) Whenever any payment of benefits under this title has been made
36 pursuant to an adjudication by the department or by order of the board
37 or any court and timely appeal therefrom has been made where the final
38 decision is that any such payment was made pursuant to an erroneous
39 adjudication, the recipient thereof shall repay it and recoupment may

1 be made from any future payments due to the recipient on any claim with
2 the state fund or self-insurer, as the case may be. The director,
3 pursuant to rules adopted in accordance with the procedures provided in
4 the administrative procedure act, chapter 34.05 RCW, may exercise his
5 discretion to waive, in whole or in part, the amount of any such
6 payments where the recovery would be against equity and good
7 conscience.

8 (5) Whenever any payment of benefits under this title has been
9 induced by fraud the recipient thereof shall repay any such payment
10 together with a penalty of fifty percent of the total of any such
11 payments and the amount of such total sum may be recouped from any
12 future payments due to the recipient on any claim with the state fund
13 or self-insurer against whom the fraud was committed, as the case may
14 be, and the amount of such penalty shall be placed in the supplemental
15 pension fund. Such repayment or recoupment must be demanded or ordered
16 within three years of the discovery of the fraud.

17 (6) The worker, beneficiary, or other person affected thereby shall
18 have the right to contest an order assessing an overpayment pursuant to
19 this section in the same manner and to the same extent as provided
20 under RCW 51.52.050 and 51.52.060. In the event such an order becomes
21 final under chapter 51.52 RCW and notwithstanding the provisions of
22 subsections (1) through (5) of this section, the director, director's
23 designee, or self-insurer may file with the clerk in any county within
24 the state a warrant in the amount of the sum representing the unpaid
25 overpayment and/or penalty plus interest accruing from the date the
26 order became final. The clerk of the county in which the warrant is
27 filed shall immediately designate a superior court cause number for
28 such warrant and the clerk shall cause to be entered in the judgment
29 docket under the superior court cause number assigned to the warrant,
30 the name of the worker, beneficiary, or other person mentioned in the
31 warrant, the amount of the unpaid overpayment and/or penalty plus
32 interest accrued, and the date the warrant was filed. The amount of
33 the warrant as docketed shall become a lien upon the title to and
34 interest in all real and personal property of the worker, beneficiary,
35 or other person against whom the warrant is issued, the same as a
36 judgment in a civil case docketed in the office of such clerk. The
37 sheriff shall then proceed in the same manner and with like effect as
38 prescribed by law with respect to execution or other process issued
39 against rights or property upon judgment in the superior court. Such

1 warrant so docketed shall be sufficient to support the issuance of
2 writs of garnishment in favor of the department or self-insurer in the
3 manner provided by law in the case of judgment, wholly or partially
4 unsatisfied. The clerk of the court shall be entitled to a filing fee
5 (~~of five dollars~~) under RCW 36.18.012(10), which shall be added to
6 the amount of the warrant. A copy of such warrant shall be mailed to
7 the worker, beneficiary, or other person within three days of filing
8 with the clerk.

9 The director, director's designee, or self-insurer may issue to any
10 person, firm, corporation, municipal corporation, political subdivision
11 of the state, public corporation, or agency of the state, a notice to
12 withhold and deliver property of any kind if there is reason to believe
13 that there is in the possession of such person, firm, corporation,
14 municipal corporation, political subdivision of the state, public
15 corporation, or agency of the state, property that is due, owing, or
16 belonging to any worker, beneficiary, or other person upon whom a
17 warrant has been served for payments due the department or self-
18 insurer. The notice and order to withhold and deliver shall be served
19 by certified mail accompanied by an affidavit of service by mailing or
20 served by the sheriff of the county, or by the sheriff's deputy, or by
21 any authorized representative of the director, director's designee, or
22 self-insurer. Any person, firm, corporation, municipal corporation,
23 political subdivision of the state, public corporation, or agency of
24 the state upon whom service has been made shall answer the notice
25 within twenty days exclusive of the day of service, under oath and in
26 writing, and shall make true answers to the matters inquired or in the
27 notice and order to withhold and deliver. In the event there is in the
28 possession of the party named and served with such notice and order,
29 any property that may be subject to the claim of the department or
30 self-insurer, such property shall be delivered forthwith to the
31 director, the director's authorized representative, or self-insurer
32 upon demand. If the party served and named in the notice and order
33 fails to answer the notice and order within the time prescribed in this
34 section, the court may, after the time to answer such order has
35 expired, render judgment by default against the party named in the
36 notice for the full amount, plus costs, claimed by the director,
37 director's designee, or self-insurer in the notice. In the event that
38 a notice to withhold and deliver is served upon an employer and the
39 property found to be subject thereto is wages, the employer may assert

1 in the answer all exemptions provided for by chapter 6.27 RCW to which
2 the wage earner may be entitled.

3 This subsection shall only apply to orders assessing an overpayment
4 which are issued on or after July 28, 1991: PROVIDED, That this
5 subsection shall apply retroactively to all orders assessing an
6 overpayment resulting from fraud, civil or criminal.

7 (7) Orders assessing an overpayment which are issued on or after
8 July 28, 1991, shall include a conspicuous notice of the collection
9 methods available to the department or self-insurer.

10 **Sec. 11.** RCW 51.48.140 and 1989 c 175 s 121 are each amended to
11 read as follows:

12 If a notice of appeal is not served on the director and the board
13 of industrial insurance appeals pursuant to RCW 51.48.131 within thirty
14 days from the date of service of the notice of assessment, or if a
15 final decision and order of the board of industrial insurance appeals
16 in favor of the department is not appealed to superior court in the
17 manner specified in RCW 34.05.510 through 34.05.598, or if a final
18 decision of any court in favor of the department is not appealed within
19 the time allowed by law, then the amount of the unappealed assessment,
20 or such amount of the assessment as is found due by the final decision
21 and order of the board of industrial insurance appeals or final
22 decision of the court shall be deemed final and the director or the
23 director's designee may file with the clerk of any county within the
24 state a warrant in the amount of the notice of assessment. The clerk
25 of the county wherein the warrant is filed shall immediately designate
26 a superior court cause number for such warrant, and the clerk shall
27 cause to be entered in the judgment docket under the superior court
28 cause number assigned to the warrant, the name of such employer
29 mentioned in the warrant, the amount of the taxes and penalties due
30 thereon, and the date when such warrant was filed. The aggregate
31 amount of such warrant as docketed shall become a lien upon the title
32 to, and interest in all real and personal property of the employer
33 against whom the warrant is issued, the same as a judgment in a civil
34 case duly docketed in the office of such clerk. The sheriff shall
35 thereupon proceed upon the same in all respects and with like effect as
36 prescribed by law with respect to execution or other process issued
37 against rights or property upon judgment in the superior court. Such
38 warrant so docketed shall be sufficient to support the issuance of

1 writs of garnishment in favor of the state in a manner provided by law
2 in case of judgment, wholly or partially unsatisfied. The clerk of the
3 court shall be entitled to a filing fee (~~(of five dollars)~~) under RCW
4 36.18.012(10), which shall be added to the amount of the warrant. A
5 copy of such warrant shall be mailed to the employer within three days
6 of filing with the clerk.

7 **Sec. 12.** RCW 82.32.210 and 1998 c 311 s 8 are each amended to read
8 as follows:

9 (1) If any fee, tax, increase, or penalty or any portion thereof is
10 not paid within fifteen days after it becomes due, the department of
11 revenue may issue a warrant in the amount of such unpaid sums, together
12 with interest thereon from the date the warrant is issued until the
13 date of payment. If, however, the department of revenue believes that
14 a taxpayer is about to cease business, leave the state, or remove or
15 dissipate the assets out of which fees, taxes or penalties might be
16 satisfied and that any tax or penalty will not be paid when due, it may
17 declare the fee, tax or penalty to be immediately due and payable and
18 may issue a warrant immediately.

19 (a) Interest imposed before January 1, 1999, shall be computed at
20 the rate of one percent of the amount of the warrant for each thirty
21 days or portion thereof.

22 (b) Interest imposed after December 31, 1998, shall be computed on
23 a daily basis on the amount of outstanding tax or fee at the rate as
24 computed under RCW 82.32.050(2). The rate so computed shall be
25 adjusted on the first day of January of each year for use in computing
26 interest for that calendar year. As used in this subsection, "fee"
27 does not include an administrative filing fee such as a court filing
28 fee and warrant fee.

29 (2) The department shall file a copy of the warrant with the clerk
30 of the superior court of any county of the state in which real and/or
31 personal property of the taxpayer may be found. The clerk is entitled
32 to a filing fee under RCW 36.18.012(10). Upon filing, the clerk shall
33 enter in the judgment docket, the name of the taxpayer mentioned in the
34 warrant and in appropriate columns the amount of the fee, tax or
35 portion thereof and any increases and penalties for which the warrant
36 is issued and the date when the copy is filed, and thereupon the amount
37 of the warrant so docketed shall become a specific lien upon all goods,
38 wares, merchandise, fixtures, equipment, or other personal property

1 used in the conduct of the business of the taxpayer against whom the
2 warrant is issued, including property owned by third persons who have
3 a beneficial interest, direct or indirect, in the operation of the
4 business, and no sale or transfer of the personal property in any way
5 affects the lien.

6 (3) The lien shall not be superior, however, to bona fide interests
7 of third persons which had vested prior to the filing of the warrant
8 when the third persons do not have a beneficial interest, direct or
9 indirect, in the operation of the business, other than the securing of
10 the payment of a debt or the receiving of a regular rental on
11 equipment. The phrase "bona fide interests of third persons" does not
12 include any mortgage of real or personal property or any other credit
13 transaction that results in the mortgagee or the holder of the security
14 acting as trustee for unsecured creditors of the taxpayer mentioned in
15 the warrant who executed the chattel or real property mortgage or the
16 document evidencing the credit transaction.

17 (4) The amount of the warrant so docketed shall thereupon also
18 become a lien upon the title to and interest in all other real and
19 personal property of the taxpayer against whom it is issued the same as
20 a judgment in a civil case duly docketed in the office of the clerk.
21 The warrant so docketed shall be sufficient to support the issuance of
22 writs of garnishment in favor of the state in the manner provided by
23 law in the case of judgments wholly or partially unsatisfied.

24 **Sec. 13.** RCW 82.36.047 and 1998 c 176 s 17 are each amended to
25 read as follows:

26 When an assessment becomes final in accordance with this chapter,
27 the department may file with the clerk of any county within the state
28 a warrant in the amount of the assessment of taxes, penalties,
29 interest, and a filing fee (~~(of five dollars)~~) under RCW 36.18.012(10).
30 The clerk of the county in which the warrant is filed shall immediately
31 designate a superior court cause number for the warrant, and the clerk
32 shall cause to be entered in the judgment docket under the superior
33 court cause number assigned to the warrant the name of the licensee or
34 person mentioned in the warrant, the amount of the tax, penalties,
35 interest, and filing fee, and the date when the warrant was filed. The
36 aggregate amount of the warrant as docketed becomes a lien upon the
37 title to and interest in all real and personal property of the named
38 person against whom the warrant is issued, the same as a judgment in a

1 civil case duly docketed in the office of the clerk. The warrant so
2 docketed is sufficient to support the issuance of writs of execution
3 and writs of garnishment in favor of the state in the manner provided
4 by law in the case of a civil judgment, wholly or partially
5 unsatisfied. The clerk of the court is entitled to a filing fee ((~~of~~
6 ~~five dollars~~)) under RCW 36.18.012(10).

7 **Sec. 14.** RCW 82.38.235 and 1998 c 176 s 78 are each amended to
8 read as follows:

9 Whenever any assessment shall have become final in accordance with
10 the provisions of this chapter, the department may file with the clerk
11 of any county within the state a warrant in the amount of the
12 assessment of taxes, penalties plus interest and a filing fee ((~~of five~~
13 ~~dollars~~)) under RCW 36.18.012(10). The clerk of the county wherein the
14 warrant is filed shall immediately designate a superior court cause
15 number for such warrant, and the clerk shall cause to be entered in the
16 judgment docket under the superior court cause number assigned to the
17 warrant, the name of the licensee mentioned in the warrant, the amount
18 of the tax, penalties, interest and filing fee and the date when such
19 warrant was filed. The aggregate amount of such warrant as docketed
20 shall become a lien upon the title to, and interest in all real and
21 personal property of named person against whom the warrant is issued,
22 the same as a judgment in a civil case duly docketed in the office of
23 such clerk. Such warrant so docketed shall be sufficient to support
24 the issuance of writs of execution and writs of garnishment in favor of
25 the state in the manner provided by law in the case of civil judgment,
26 wholly or partially unsatisfied. The clerk of the court shall be
27 entitled to a filing fee ((~~of five dollars~~)) under RCW 36.18.012(10),
28 which shall be added to the amount of the warrant.

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