
SENATE BILL 5115

State of Washington 57th Legislature 2001 Regular Session

By Senators Costa, Long, Fairley, Kline, Hargrove and McCaslin

Read first time 01/11/2001. Referred to Committee on Judiciary.

1 AN ACT Relating to court filing fees; amending RCW 36.18.012,
2 36.18.016, 40.14.027, 41.50.136, 46.87.370, 50.20.190, 50.24.115,
3 51.24.060, 51.48.140, 82.32.210, 82.36.047, and 82.38.235; reenacting
4 and amending RCW 51.32.240; providing an effective date; and declaring
5 an emergency.

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

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

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

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

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

18 ~~(4))~~) The clerk shall collect a fee of twenty dollars for: Filing
19 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 **Sec. 2.** RCW 36.18.016 and 2000 c 170 s 1 are each amended to read
20 as follows:

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

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

26 (3)(a) The party making a demand for a jury of six in a civil
27 action shall pay, at the time, a fee of one hundred twenty-five
28 dollars; if the demand is for a jury of twelve, a fee of two hundred
29 fifty dollars. If, after the party demands a jury of six and pays the
30 required fee, any other party to the action requests a jury of twelve,
31 an additional one hundred twenty-five dollar fee will be required of
32 the party demanding the increased number of jurors.

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

36 (4) For preparing, transcribing, or certifying an instrument on
37 file or of record in the clerk's office, with or without seal, for the
38 first page or portion of the first page, a fee of two dollars, and for

1 each additional page or portion of a page, a fee of one dollar must be
2 charged. For authenticating or exemplifying an instrument, a fee of
3 one dollar for each additional seal affixed must be charged.

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

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

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

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

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

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

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

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

26 (13) For filing a disclaimer of interest under RCW 11.86.031(4), a
27 fee of (~~two~~) twenty dollars must be charged.

28 (14) For registration of land titles, Torrens Act, under RCW
29 65.12.780, a fee of five dollars must be charged.

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

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

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

37 (18) For filing a warrant for overpayment of state retirement
38 systems benefits under chapter 41.50 RCW, a fee of five dollars shall

1 be charged pursuant to RCW 41.50.136; for such warrants filed after
2 July 1, 2003, a fee of twenty dollars shall be paid.

3 (19) A service fee of three dollars for the first page and one
4 dollar for each additional page must be charged for receiving faxed
5 documents, pursuant to Washington state rules of court, general rule
6 17.

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

9 (21) For copies and reports produced at the local level as
10 permitted by RCW 2.68.020 and supreme court policy, a variable fee must
11 be charged.

12 (22) Investment service charge and earnings under RCW 36.48.090
13 must be charged.

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

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

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

27 (26) For the filing of a tax warrant for unpaid taxes or
28 overpayment of benefits by any agency of the state of Washington, a fee
29 of five dollars on or after July 1, 2001; for the filing of such a tax
30 warrant on or after July 1, 2003, a fee of twenty dollars.

31 **Sec. 3.** RCW 40.14.027 and 1996 c 245 s 4 are each amended to read
32 as follows:

33 State agencies shall collect a surcharge of twenty dollars from the
34 judgment debtor upon the satisfaction of a warrant filed in superior
35 court for unpaid taxes or liabilities. The surcharge is imposed on the
36 judgment debtor in the form of a penalty in addition to the filing fee
37 provided in RCW (~~(36.18.012(3))~~) 36.18.016(26). The surcharge revenue

1 shall be transmitted to the state treasurer for deposit in the archives
2 and records management account.

3 Surcharge revenue deposited in the archives and records management
4 account shall be expended by the secretary of state exclusively for
5 disaster recovery, essential records protection services, and records
6 management training for local government agencies by the division of
7 archives and records management. The secretary of state shall, with
8 local government representatives, establish a committee to advise the
9 state archivist on the local government archives and records management
10 program.

11 **Sec. 4.** RCW 41.50.136 and 1996 c 56 s 2 are each amended to read
12 as follows:

13 Whenever a notice of determination of liability becomes conclusive
14 and final under RCW 41.50.135, the director, upon giving at least
15 twenty days notice by certified mail return receipt requested to the
16 individual's last known address of the intended action, may file with
17 the superior court clerk of any county within the state a warrant in
18 the amount of the notice of determination of liability plus a filing
19 fee (~~(of five dollars payable)~~) under RCW 36.18.016. The clerk of the
20 county where the warrant is filed shall immediately designate a
21 superior court cause number for the warrant, and the clerk shall cause
22 to be entered in the judgment docket under the superior court cause
23 number assigned to the warrant, the name of the person mentioned in the
24 warrant, the amount of the notice of determination of liability, and
25 the date when the warrant was filed. The amount of the warrant as
26 docketed shall become a lien upon the title to, and any interest in,
27 all real and personal property of the person against whom the warrant
28 is issued, the same as a judgment in a civil case duly docketed in the
29 office of such clerk. A copy of the warrant shall be mailed to the
30 person mentioned in the warrant by certified mail to the person's last
31 known address within five days of its filing with the clerk.

32 **Sec. 5.** RCW 46.87.370 and 1987 c 244 s 50 are each amended to read
33 as follows:

34 Whenever any assessment has become final in accordance with this
35 chapter, the department may file with the clerk of any county within
36 this state a warrant in the amount of fees, taxes, penalties, interest,
37 and a filing fee (~~(of five dollars)~~) under RCW 36.18.016. The clerk of

1 the county in which the warrant is filed shall immediately designate a
2 superior court cause number for the warrant, and the clerk shall cause
3 to be entered in the judgment docket under the superior court cause
4 number assigned to the warrant the name of the delinquent owner of
5 proportionally registered vehicles mentioned in the warrant, the amount
6 of the fees, taxes, penalties, interest, and filing fee, and the date
7 when the warrant was filed. The aggregate amount of the warrant as
8 docketed constitutes a lien upon the title to, and interest in, all
9 real and personal property of the named person against whom the warrant
10 is issued, the same as a judgment in a civil case duly docketed in the
11 office of the clerk. A warrant so docketed is sufficient to support
12 the issuance of writs of execution and writs of garnishment in favor of
13 the state in the manner provided by law in the case of civil judgment
14 wholly or partially unsatisfied. The clerk of the court is entitled to
15 a filing fee (~~(of five dollars)~~) under RCW 36.18.016, which shall be
16 added to the amount of the warrant.

17 **Sec. 6.** RCW 50.20.190 and 1995 c 90 s 1 are each amended to read
18 as follows:

19 (1) An individual who is paid any amount as benefits under this
20 title to which he or she is not entitled shall, unless otherwise
21 relieved pursuant to this section, be liable for repayment of the
22 amount overpaid. The department shall issue an overpayment assessment
23 setting forth the reasons for and the amount of the overpayment. The
24 amount assessed, to the extent not collected, may be deducted from any
25 future benefits payable to the individual: PROVIDED, That in the
26 absence of a back pay award, a settlement affecting the allowance of
27 benefits, fraud, misrepresentation, or willful nondisclosure, every
28 determination of liability shall be mailed or personally served not
29 later than two years after the close of or final payment made on the
30 individual's applicable benefit year for which the purported
31 overpayment was made, whichever is later, unless the merits of the
32 claim are subjected to administrative or judicial review in which event
33 the period for serving the determination of liability shall be extended
34 to allow service of the determination of liability during the six-month
35 period following the final decision affecting the claim.

36 (2) The commissioner may waive an overpayment if the commissioner
37 finds that (~~said~~) the overpayment was not the result of fraud,
38 misrepresentation, willful nondisclosure, or fault attributable to the

1 individual and that the recovery thereof would be against equity and
2 good conscience: PROVIDED, HOWEVER, That the overpayment so waived
3 shall be charged against the individual's applicable entitlement for
4 the eligibility period containing the weeks to which the overpayment
5 was attributed as though such benefits had been properly paid.

6 (3) Any assessment herein provided shall constitute a determination
7 of liability from which an appeal may be had in the same manner and to
8 the same extent as provided for appeals relating to determinations in
9 respect to claims for benefits: PROVIDED, That an appeal from any
10 determination covering overpayment only shall be deemed to be an appeal
11 from the determination which was the basis for establishing the
12 overpayment unless the merits involved in the issue set forth in such
13 determination have already been heard and passed upon by the appeal
14 tribunal. If no such appeal is taken to the appeal tribunal by the
15 individual within thirty days of the delivery of the notice of
16 determination of liability, or within thirty days of the mailing of the
17 notice of determination, whichever is the earlier, (~~said~~) the
18 determination of liability shall be deemed conclusive and final.
19 Whenever any such notice of determination of liability becomes
20 conclusive and final, the commissioner, upon giving at least twenty
21 days notice by certified mail return receipt requested to the
22 individual's last known address of the intended action, may file with
23 the superior court clerk of any county within the state a warrant in
24 the amount of the notice of determination of liability plus a filing
25 fee (~~of five dollars~~) under RCW 36.18.016. The clerk of the county
26 where the warrant is filed shall immediately designate a superior court
27 cause number for the warrant, and the clerk shall cause to be entered
28 in the judgment docket under the superior court cause number assigned
29 to the warrant, the name of the person(s) mentioned in the warrant, the
30 amount of the notice of determination of liability, and the date when
31 the warrant was filed. The amount of the warrant as docketed shall
32 become a lien upon the title to, and any interest in, all real and
33 personal property of the person(s) against whom the warrant is issued,
34 the same as a judgment in a civil case duly docketed in the office of
35 such clerk. A warrant so docketed shall be sufficient to support the
36 issuance of writs of execution and writs of garnishment in favor of the
37 state in the manner provided by law for a civil judgment. A copy of
38 the warrant shall be mailed to the person(s) mentioned in the warrant

1 by certified mail to the person's last known address within five days
2 of its filing with the clerk.

3 (4) On request of any agency which administers an employment
4 security law of another state, the United States, or a foreign
5 government and which has found in accordance with the provisions of
6 such law that a claimant is liable to repay benefits received under
7 such law, the commissioner may collect the amount of such benefits from
8 the claimant to be refunded to the agency. In any case in which under
9 this section a claimant is liable to repay any amount to the agency of
10 another state, the United States, or a foreign government, such amounts
11 may be collected without interest by civil action in the name of the
12 commissioner acting as agent for such agency if the other state, the
13 United States, or the foreign government extends such collection rights
14 to the employment security department of the state of Washington, and
15 provided that the court costs be paid by the governmental agency
16 benefiting from such collection.

17 (5) Any employer who is a party to a back pay award or settlement
18 due to loss of wages shall, within thirty days of the award or
19 settlement, report to the department the amount of the award or
20 settlement, the name and social security number of the recipient of the
21 award or settlement, and the period for which it is awarded. When an
22 individual has been awarded or receives back pay, for benefit purposes
23 the amount of the back pay shall constitute wages paid in the period
24 for which it was awarded. For contribution purposes, the back pay
25 award or settlement shall constitute wages paid in the period in which
26 it was actually paid. The following requirements shall also apply:

27 (a) The employer shall reduce the amount of the back pay award or
28 settlement by an amount determined by the department based upon the
29 amount of unemployment benefits received by the recipient of the award
30 or settlement during the period for which the back pay award or
31 settlement was awarded;

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

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

1 (d) If the employer fails to reduce the amount of the back pay
2 award or settlement as required in (a) of this subsection, the
3 department shall issue an overpayment assessment against the recipient
4 of the award or settlement in the amount that the back pay award or
5 settlement should have been reduced; and

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

11 (6) When an individual fails to repay an overpayment assessment
12 that is due and fails to arrange for satisfactory repayment terms, the
13 commissioner shall impose an interest penalty of one percent per month
14 of the outstanding balance. Interest shall accrue immediately on
15 overpayments assessed pursuant to RCW 50.20.070 and shall be imposed
16 when the assessment becomes final. For any other overpayment, interest
17 shall accrue when the individual has missed two or more of their
18 monthly payments either partially or in full. The interest penalty
19 shall be used to fund detection and recovery of overpayment and
20 collection activities.

21 **Sec. 7.** RCW 50.24.115 and 1983 1st ex.s. c 23 s 16 are each
22 amended to read as follows:

23 Whenever any order and notice of assessment or jeopardy assessment
24 shall have become final in accordance with the provisions of this title
25 the commissioner may file with the clerk of any county within the state
26 a warrant in the amount of the notice of assessment plus interest,
27 penalties, and a filing fee (~~of five dollars~~) under RCW 36.18.016.
28 The clerk of the county wherein the warrant is filed shall immediately
29 designate a superior court cause number for such warrant, and the clerk
30 shall cause to be entered in the judgment docket under the superior
31 court cause number assigned to the warrant, the name of the employer
32 mentioned in the warrant, the amount of the tax, interest, penalties,
33 and filing fee and the date when such warrant was filed. The aggregate
34 amount of such warrant as docketed shall become a lien upon the title
35 to, and interest in all real and personal property of the employer
36 against whom the warrant is issued, the same as a judgment in a civil
37 case duly docketed in the office of such clerk. Such warrant so
38 docketed shall be sufficient to support the issuance of writs of

1 execution and writs of garnishment in favor of the state in the manner
2 provided by law in the case of civil judgment, wholly or partially
3 unsatisfied. The clerk of the court shall be entitled to a filing fee
4 (~~of five dollars~~) under RCW 36.18.016, which shall be added to the
5 amount of the warrant, and charged by the commissioner to the employer
6 or employing unit. A copy of the warrant shall be mailed to the
7 employer or employing unit by certified mail to his last known address
8 within five days of filing with the clerk.

9 **Sec. 8.** RCW 51.24.060 and 1995 c 199 s 4 are each amended to read
10 as follows:

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

14 (a) The costs and reasonable attorneys' fees shall be paid
15 proportionately by the injured worker or beneficiary and the department
16 and/or self-insurer: PROVIDED, That the department and/or self-insurer
17 may require court approval of costs and attorneys' fees or may petition
18 a court for determination of the reasonableness of costs and attorneys'
19 fees;

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

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

27 (i) The department and/or self-insurer shall bear its proportionate
28 share of the costs and reasonable attorneys' fees incurred by the
29 worker or beneficiary to the extent of the benefits paid under this
30 title: PROVIDED, That the department's and/or self-insurer's
31 proportionate share shall not exceed one hundred percent of the costs
32 and reasonable attorneys' fees;

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

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

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

6 (e) Thereafter no payment shall be made to or on behalf of a worker
7 or beneficiary by the department and/or self-insurer for such injury
8 until the amount of any further compensation and benefits shall equal
9 any such remaining balance minus the department's and/or self-insurer's
10 proportionate share of the costs and reasonable attorneys' fees in
11 regards to the remaining balance. This proportionate share shall be
12 determined by dividing the gross recovery amount into the remaining
13 balance amount and multiplying this percentage times the costs and
14 reasonable attorneys' fees incurred by the worker or beneficiary.
15 Thereafter, such benefits shall be paid by the department and/or self-
16 insurer to or on behalf of the worker or beneficiary as though no
17 recovery had been made from a third person.

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

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

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

27 (b) Factual and legal issues of liability as between the injured
28 worker or beneficiary and the third person. Such issues include but
29 are not limited to possible contributory negligence and novel theories
30 of liability; and

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

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

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

1 (6) The distribution of any recovery made by award or settlement of
2 the third party action shall be confirmed by department order, served
3 by registered or certified mail, and shall be subject to chapter 51.52
4 RCW. In the event the order of distribution becomes final under
5 chapter 51.52 RCW, the director or the director's designee may file
6 with the clerk of any county within the state a warrant in the amount
7 of the sum representing the unpaid lien plus interest accruing from the
8 date the order became final. The clerk of the county in which the
9 warrant is filed shall immediately designate a superior court cause
10 number for such warrant and the clerk shall cause to be entered in the
11 judgment docket under the superior court cause number assigned to the
12 warrant, the name of such worker or beneficiary mentioned in the
13 warrant, the amount of the unpaid lien plus interest accrued and the
14 date when the warrant was filed. The amount of such warrant as
15 docketed shall become a lien upon the title to and interest in all real
16 and personal property of the injured worker or beneficiary against whom
17 the warrant is issued, the same as a judgment in a civil case docketed
18 in the office of such clerk. The sheriff shall then proceed in the
19 same manner and with like effect as prescribed by law with respect to
20 execution or other process issued against rights or property upon
21 judgment in the superior court. Such warrant so docketed shall be
22 sufficient to support the issuance of writs of garnishment in favor of
23 the department in the manner provided by law in the case of judgment,
24 wholly or partially unsatisfied. The clerk of the court shall be
25 entitled to a filing fee (~~(of five dollars)~~) under RCW 36.18.016, which
26 shall be added to the amount of the warrant. A copy of such warrant
27 shall be mailed to the injured worker or beneficiary within three days
28 of filing with the clerk.

29 (7) The director, or the director's designee, may issue to any
30 person, firm, corporation, municipal corporation, political subdivision
31 of the state, public corporation, or agency of the state, a notice and
32 order to withhold and deliver property of any kind if he or she has
33 reason to believe that there is in the possession of such person, firm,
34 corporation, municipal corporation, political subdivision of the state,
35 public corporation, or agency of the state, property which is due,
36 owing, or belonging to any worker or beneficiary upon whom a warrant
37 has been served by the department for payments due to the state fund.
38 The notice and order to withhold and deliver shall be served by the
39 sheriff of the county or by the sheriff's deputy; by certified mail,

1 return receipt requested; or by any authorized representatives of the
2 director. Any person, firm, corporation, municipal corporation,
3 political subdivision of the state, public corporation, or agency of
4 the state upon whom service has been made shall answer the notice
5 within twenty days exclusive of the day of service, under oath and in
6 writing, and shall make true answers to the matters inquired of in the
7 notice and order to withhold and deliver. In the event there is in the
8 possession of the party named and served with such notice and order,
9 any property which may be subject to the claim of the department, such
10 property shall be delivered forthwith to the director or the director's
11 authorized representative upon demand. If the party served and named
12 in the notice and order fails to answer the notice and order within the
13 time prescribed in this section, the court may, after the time to
14 answer such order has expired, render judgment by default against the
15 party named in the notice for the full amount claimed by the director
16 in the notice together with costs. In the event that a notice to
17 withhold and deliver is served upon an employer and the property found
18 to be subject thereto is wages, the employer may assert in the answer
19 to all exemptions provided for by chapter 6.27 RCW to which the wage
20 earner may be entitled.

21 **Sec. 9.** RCW 51.32.240 and 1999 c 396 s 1 and 1999 c 119 s 1 are
22 each reenacted and amended to read as follows:

23 (1) Whenever any payment of benefits under this title is made
24 because of clerical error, mistake of identity, innocent
25 misrepresentation by or on behalf of the recipient thereof mistakenly
26 acted upon, or any other circumstance of a similar nature, all not
27 induced by fraud, the recipient thereof shall repay it and recoupment
28 may be made from any future payments due to the recipient on any claim
29 with the state fund or self-insurer, as the case may be. The
30 department or self-insurer, as the case may be, must make claim for
31 such repayment or recoupment within one year of the making of any such
32 payment or it will be deemed any claim therefor has been waived. The
33 director, pursuant to rules adopted in accordance with the procedures
34 provided in the administrative procedure act, chapter 34.05 RCW, may
35 exercise his discretion to waive, in whole or in part, the amount of
36 any such timely claim where the recovery would be against equity and
37 good conscience.

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

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

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

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

25 (4) Whenever any payment of benefits under this title has been made
26 pursuant to an adjudication by the department or by order of the board
27 or any court and timely appeal therefrom has been made where the final
28 decision is that any such payment was made pursuant to an erroneous
29 adjudication, the recipient thereof shall repay it and recoupment may
30 be made from any future payments due to the recipient on any claim with
31 the state fund or self-insurer, as the case may be. The director,
32 pursuant to rules adopted in accordance with the procedures provided in
33 the administrative procedure act, chapter 34.05 RCW, may exercise his
34 discretion to waive, in whole or in part, the amount of any such
35 payments where the recovery would be against equity and good
36 conscience.

37 (5) Whenever any payment of benefits under this title has been
38 induced by fraud the recipient thereof shall repay any such payment
39 together with a penalty of fifty percent of the total of any such

1 payments and the amount of such total sum may be recouped from any
2 future payments due to the recipient on any claim with the state fund
3 or self-insurer against whom the fraud was committed, as the case may
4 be, and the amount of such penalty shall be placed in the supplemental
5 pension fund. Such repayment or recoupment must be demanded or ordered
6 within three years of the discovery of the fraud.

7 (6) The worker, beneficiary, or other person affected thereby shall
8 have the right to contest an order assessing an overpayment pursuant to
9 this section in the same manner and to the same extent as provided
10 under RCW 51.52.050 and 51.52.060. In the event such an order becomes
11 final under chapter 51.52 RCW and notwithstanding the provisions of
12 subsections (1) through (5) of this section, the director, director's
13 designee, or self-insurer may file with the clerk in any county within
14 the state a warrant in the amount of the sum representing the unpaid
15 overpayment and/or penalty plus interest accruing from the date the
16 order became final. The clerk of the county in which the warrant is
17 filed shall immediately designate a superior court cause number for
18 such warrant and the clerk shall cause to be entered in the judgment
19 docket under the superior court cause number assigned to the warrant,
20 the name of the worker, beneficiary, or other person mentioned in the
21 warrant, the amount of the unpaid overpayment and/or penalty plus
22 interest accrued, and the date the warrant was filed. The amount of
23 the warrant as docketed shall become a lien upon the title to and
24 interest in all real and personal property of the worker, beneficiary,
25 or other person against whom the warrant is issued, the same as a
26 judgment in a civil case docketed in the office of such clerk. The
27 sheriff shall then proceed in the same manner and with like effect as
28 prescribed by law with respect to execution or other process issued
29 against rights or property upon judgment in the superior court. Such
30 warrant so docketed shall be sufficient to support the issuance of
31 writs of garnishment in favor of the department or self-insurer in the
32 manner provided by law in the case of judgment, wholly or partially
33 unsatisfied. The clerk of the court shall be entitled to a filing fee
34 (~~of five dollars~~) under RCW 36.18.016, which shall be added to the
35 amount of the warrant. A copy of such warrant shall be mailed to the
36 worker, beneficiary, or other person within three days of filing with
37 the clerk.

38 The director, director's designee, or self-insurer may issue to any
39 person, firm, corporation, municipal corporation, political subdivision

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

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

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

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

3 If a notice of appeal is not served on the director and the board
4 of industrial insurance appeals pursuant to RCW 51.48.131 within thirty
5 days from the date of service of the notice of assessment, or if a
6 final decision and order of the board of industrial insurance appeals
7 in favor of the department is not appealed to superior court in the
8 manner specified in RCW 34.05.510 through 34.05.598, or if a final
9 decision of any court in favor of the department is not appealed within
10 the time allowed by law, then the amount of the unappealed assessment,
11 or such amount of the assessment as is found due by the final decision
12 and order of the board of industrial insurance appeals or final
13 decision of the court shall be deemed final and the director or the
14 director's designee may file with the clerk of any county within the
15 state a warrant in the amount of the notice of assessment. The clerk
16 of the county wherein the warrant is filed shall immediately designate
17 a superior court cause number for such warrant, and the clerk shall
18 cause to be entered in the judgment docket under the superior court
19 cause number assigned to the warrant, the name of such employer
20 mentioned in the warrant, the amount of the taxes and penalties due
21 thereon, and the date when such warrant was filed. The aggregate
22 amount of such warrant as docketed shall become a lien upon the title
23 to, and interest in all real and personal property of the employer
24 against whom the warrant is issued, the same as a judgment in a civil
25 case duly docketed in the office of such clerk. The sheriff shall
26 thereupon proceed upon the same in all respects and with like effect as
27 prescribed by law with respect to execution or other process issued
28 against rights or property upon judgment in the superior court. Such
29 warrant so docketed shall be sufficient to support the issuance of
30 writs of garnishment in favor of the state in a manner provided by law
31 in case of judgment, wholly or partially unsatisfied. The clerk of the
32 court shall be entitled to a filing fee (~~(of five dollars)~~) under RCW
33 36.18.016, which shall be added to the amount of the warrant. A copy
34 of such warrant shall be mailed to the employer within three days of
35 filing with the clerk.

36 **Sec. 11.** RCW 82.32.210 and 1998 c 311 s 8 are each amended to read
37 as follows:

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

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

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

21 (2) The department shall file a copy of the warrant with the clerk
22 of the superior court of any county of the state in which real and/or
23 personal property of the taxpayer may be found. The clerk is entitled
24 to a filing fee under RCW 36.18.016. Upon filing, the clerk shall
25 enter in the judgment docket, the name of the taxpayer mentioned in the
26 warrant and in appropriate columns the amount of the fee, tax or
27 portion thereof and any increases and penalties for which the warrant
28 is issued and the date when the copy is filed, and thereupon the amount
29 of the warrant so docketed shall become a specific lien upon all goods,
30 wares, merchandise, fixtures, equipment, or other personal property
31 used in the conduct of the business of the taxpayer against whom the
32 warrant is issued, including property owned by third persons who have
33 a beneficial interest, direct or indirect, in the operation of the
34 business, and no sale or transfer of the personal property in any way
35 affects the lien.

36 (3) The lien shall not be superior, however, to bona fide interests
37 of third persons which had vested prior to the filing of the warrant
38 when the third persons do not have a beneficial interest, direct or
39 indirect, in the operation of the business, other than the securing of

1 the payment of a debt or the receiving of a regular rental on
2 equipment. The phrase "bona fide interests of third persons" does not
3 include any mortgage of real or personal property or any other credit
4 transaction that results in the mortgagee or the holder of the security
5 acting as trustee for unsecured creditors of the taxpayer mentioned in
6 the warrant who executed the chattel or real property mortgage or the
7 document evidencing the credit transaction.

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

15 **Sec. 12.** RCW 82.36.047 and 1998 c 176 s 17 are each amended to
16 read as follows:

17 When an assessment becomes final in accordance with this chapter,
18 the department may file with the clerk of any county within the state
19 a warrant in the amount of the assessment of taxes, penalties,
20 interest, and a filing fee (~~of five dollars~~) under RCW 36.18.016.
21 The clerk of the county in which the warrant is filed shall immediately
22 designate a superior court cause number for the warrant, and the clerk
23 shall cause to be entered in the judgment docket under the superior
24 court cause number assigned to the warrant the name of the licensee or
25 person mentioned in the warrant, the amount of the tax, penalties,
26 interest, and filing fee, and the date when the warrant was filed. The
27 aggregate amount of the warrant as docketed becomes a lien upon the
28 title to and interest in all real and personal property of the named
29 person against whom the warrant is issued, the same as a judgment in a
30 civil case duly docketed in the office of the clerk. The warrant so
31 docketed is sufficient to support the issuance of writs of execution
32 and writs of garnishment in favor of the state in the manner provided
33 by law in the case of a civil judgment, wholly or partially
34 unsatisfied. The clerk of the court is entitled to a filing fee (~~of
35 five dollars~~) under RCW 36.18.016.

36 **Sec. 13.** RCW 82.38.235 and 1998 c 176 s 78 are each amended to
37 read as follows:

1 Whenever any assessment shall have become final in accordance with
2 the provisions of this chapter, the department may file with the clerk
3 of any county within the state a warrant in the amount of the
4 assessment of taxes, penalties plus interest and a filing fee (~~(of five~~
5 ~~dollars)~~) under RCW 36.18.016. The clerk of the county wherein the
6 warrant is filed shall immediately designate a superior court cause
7 number for such warrant, and the clerk shall cause to be entered in the
8 judgment docket under the superior court cause number assigned to the
9 warrant, the name of the licensee mentioned in the warrant, the amount
10 of the tax, penalties, interest and filing fee and the date when such
11 warrant was filed. The aggregate amount of such warrant as docketed
12 shall become a lien upon the title to, and interest in all real and
13 personal property of named person against whom the warrant is issued,
14 the same as a judgment in a civil case duly docketed in the office of
15 such clerk. Such warrant so docketed shall be sufficient to support
16 the issuance of writs of execution and writs of garnishment in favor of
17 the state in the manner provided by law in the case of civil judgment,
18 wholly or partially unsatisfied. The clerk of the court shall be
19 entitled to a filing fee (~~(of five dollars)~~) under RCW 36.18.016, which
20 shall be added to the amount of the warrant.

21 NEW SECTION. **Sec. 14.** This act is necessary for the immediate
22 preservation of the public peace, health, or safety, or support of the
23 state government and its existing public institutions, and takes effect
24 July 1, 2001.

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