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HOUSE BILL 3035

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State of Washington                      59th Legislature                      2006 Regular Session

By Representatives Williams, Rodne and Campbell

Read first time 01/18/2006. Referred to Committee on Judiciary.

1            AN ACT Relating to statutory costs; and amending RCW 4.84.010 and  
2 12.20.060.

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

4            **Sec. 1.** RCW 4.84.010 and 1993 c 48 s 1 are each amended to read as  
5 follows:

6            (1) The measure and mode of compensation of attorneys and  
7 counselors, shall be left to the agreement, expressed or implied, of  
8 the parties, but there shall be allowed to the prevailing party upon  
9 the judgment certain sums (~~(by way of indemnity)~~) for the prevailing  
10 party's expenses in the action, which allowances are termed costs,  
11 including, in addition to costs otherwise authorized by law, the  
12 following expenses:

13            ~~((1))~~ (a) Filing fees;

14            ~~((2))~~ (b) Fees for the service of process by a public officer,  
15 registered process server, or other means, as follows:

16            ~~((a))~~ (i) When service is by a public officer, the recoverable  
17 cost is the fee authorized by law at the time of service.

18            ~~((b))~~ (ii) If service is by a process server registered pursuant

1 to chapter 18.180 RCW or a person exempt from registration, the  
2 recoverable cost is the amount reasonably incurred in effecting  
3 service;

4 ~~((3))~~ (c) Fees for service by publication;

5 ~~((4))~~ (d) Notary fees, but only to the extent the fees are for  
6 services that are expressly required by law and only to the extent they  
7 represent actual costs incurred by the prevailing party;

8 ~~((5))~~ (e) Reasonable expenses, exclusive of attorneys' fees,  
9 incurred in obtaining reports and records, which are admitted into  
10 evidence at trial or in mandatory arbitration in superior or district  
11 court, including but not limited to medical records, tax records,  
12 personnel records, insurance reports, employment and wage records,  
13 police reports, school records, bank records, and legal files;

14 ~~((6))~~ (f) Statutory attorney and witness fees; and

15 ~~((7))~~ (g) To the extent that the court or arbitrator finds that  
16 it was necessary to achieve the successful result, the reasonable  
17 expense of the transcription of depositions used at trial or at the  
18 mandatory arbitration hearing: PROVIDED, That the expenses of  
19 depositions shall be allowed on a pro rata basis for those portions of  
20 the depositions introduced into evidence or used for purposes of  
21 impeachment.

22 (2)(a) For purposes of awarding costs, including a statutory  
23 attorneys' fee, and except as provided in RCW 4.84.110 and 4.84.120,  
24 the plaintiff shall be considered the prevailing party if, after  
25 commencement of the action, the defendant tenders and the plaintiff  
26 accepts full or partial payment of the amounts sued for, and if before  
27 such tender and acceptance the plaintiff has in writing notified the  
28 defendant that full or partial payment of the amounts sued for may  
29 nevertheless result in an award of costs. In such case the plaintiff  
30 is entitled to its costs, and the court shall, upon the plaintiff's  
31 application, enter judgment for the plaintiff for costs, except such  
32 costs as are paid before entry of judgment.

33 (b) For purposes of this subsection, "plaintiff" includes a  
34 counter-claimant, cross-claimant, and third-party plaintiff; and  
35 "defendant" includes a party defending a counter-claim, cross-claim, or  
36 third-party claim.

37 (3) Nothing prevents a party from demanding, offering, or accepting

1 payment of statutory costs, or from reducing or waiving statutory  
2 costs, before the entry of judgment in an action.

3 **Sec. 2.** RCW 12.20.060 and 2004 c 123 s 2 are each amended to read  
4 as follows:

5 (1) When the prevailing party in district court is entitled to  
6 recover costs as authorized in RCW 4.84.010 in a civil action, the  
7 judge shall add the amount thereof to the judgment; in case of failure  
8 of the plaintiff to recover or of dismissal of the action, the judge  
9 shall enter up a judgment in favor of the defendant for the amount of  
10 his or her costs; and in case any party so entitled to costs is  
11 represented in the action by an attorney, the judge shall include  
12 ((attorney's)) attorneys' fees in the amount provided in RCW 4.84.060  
13 as part of the costs: PROVIDED, HOWEVER, That the plaintiff shall not  
14 be entitled to such attorneys' fee unless he or she obtains, exclusive  
15 of costs, a judgment in the sum of fifty dollars or more: AND PROVIDED  
16 FURTHER, That if the plaintiff obtains judgment, exclusive of costs, of  
17 at least fifty dollars but less than two hundred dollars, the judge  
18 shall include attorneys' fees of one hundred twenty-five dollars as  
19 part of the costs.

20 (2)(a) For purposes of awarding costs, including a statutory  
21 attorneys' fee, and except as provided in RCW 12.20.040, the plaintiff  
22 shall be considered the prevailing party if, after commencement of the  
23 action, the defendant tenders and the plaintiff accepts full or partial  
24 payment of the amounts sued for, and if before such tender and  
25 acceptance the plaintiff has in writing notified the defendant that  
26 full or partial payment of the amounts sued for may nevertheless result  
27 in an award of costs. In such case the plaintiff is entitled to its  
28 costs, and the court shall, upon the plaintiff's application, enter  
29 judgment for the plaintiff for costs, except such costs as are paid  
30 before entry of judgment. However, the plaintiff is not entitled to  
31 statutory attorneys' fees unless the amount prayed for, exclusive of  
32 costs, is fifty dollars or more, and if the amount prayed for,  
33 exclusive of costs, is at least fifty dollars but less than two hundred  
34 dollars, the judgment shall include attorneys' fees of one hundred  
35 twenty-five dollars as part of the costs.

36 (b) For purposes of this subsection, "plaintiff" includes a

1 counter-claimant, cross-claimant, and third-party plaintiff; and  
2 "defendant" includes a party defending a counter-claim, cross-claim, or  
3 third-party claim.

4 (3) Nothing prevents a party from demanding, offering, or accepting  
5 payment of statutory costs, or from reducing or waiving statutory  
6 costs, before the entry of judgment in an action.

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