

SHB 1248 - S COMM AMD

By Committee on Law & Justice

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 3.66.020 and 2008 c 227 s 1 are each amended to
4 read as follows:

5 If, for each claimant, the value of the claim or the amount at
6 issue does not exceed (~~(seventy-five)~~) one hundred thousand dollars,
7 exclusive of interest, costs, and attorneys' fees, the district court
8 shall have jurisdiction and cognizance of the following civil actions
9 and proceedings:

- 10 (1) Actions arising on contract for the recovery of money;
- 11 (2) Actions for damages for injuries to the person, or for taking
12 or detaining personal property, or for injuring personal property, or
13 for an injury to real property when no issue raised by the answer
14 involves the plaintiff's title to or possession of the same and
15 actions to recover the possession of personal property;
- 16 (3) Actions for a penalty;
- 17 (4) Actions upon a bond conditioned for the payment of money,
18 when the amount claimed does not exceed fifty thousand dollars,
19 though the penalty of the bond exceeds that sum, the judgment to be
20 given for the sum actually due, not exceeding the amount claimed in
21 the complaint;
- 22 (5) Actions on an undertaking or surety bond taken by the court;
- 23 (6) Actions for damages for fraud in the sale, purchase, or
24 exchange of personal property;
- 25 (7) Proceedings to take and enter judgment on confession of a
26 defendant;
- 27 (8) Proceedings to issue writs of attachment, garnishment and
28 replevin upon goods, chattels, moneys, and effects;
- 29 (9) Actions arising under the provisions of chapter 19.190 RCW;
- 30 (10) Proceedings to civilly enforce any money judgment entered in
31 any municipal court or municipal department of a district court
32 organized under the laws of this state; and

1 (11) All other actions and proceedings of which jurisdiction is
2 specially conferred by statute, when the title to, or right of
3 possession of, real property is not involved.

4 **Sec. 2.** RCW 7.06.020 and 2005 c 472 s 2 are each amended to read
5 as follows:

6 (1) All civil actions, except for appeals from municipal or
7 district courts, which are at issue in the superior court in counties
8 which have authorized arbitration, where the sole relief sought is a
9 money judgment, and where no party asserts a claim in excess of
10 fifteen thousand dollars, or if approved by the superior court of a
11 county by two-thirds or greater vote of the judges thereof, up to
12 (~~fifty~~) seventy-five thousand dollars, exclusive of interest and
13 costs, are subject to mandatory arbitration.

14 (2) If approved by majority vote of the superior court judges of
15 a county which has authorized arbitration, all civil actions which
16 are at issue in the superior court in which the sole relief sought is
17 the establishment, termination or modification of maintenance or
18 child support payments are subject to mandatory arbitration. The
19 arbitrability of any such action shall not be affected by the amount
20 or number of payments involved.

21 **Sec. 3.** RCW 7.06.040 and 1987 c 212 s 102 are each amended to
22 read as follows:

23 The appointment of arbitrators shall be prescribed by rules
24 adopted by the supreme court. An arbitrator must be a member of the
25 state bar association who has been admitted to the bar for a minimum
26 of five years or who is a retired judge. An arbitrator must complete
27 a minimum of three credits of Washington state bar association-
28 approved continuing legal education credits on the professional and
29 ethical considerations for serving as an arbitrator. The superior
30 court must verify that any attorney seeking appointment as an
31 arbitrator for mandatory arbitration of civil cases under this
32 chapter has completed the required training. The parties may
33 stipulate to a nonlawyer arbitrator. The supreme court may prescribe
34 by rule additional qualifications of arbitrators.

35 Arbitrators shall be compensated in the same amount and manner as
36 judges pro tempore of the superior court.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 7.06 RCW
2 to read as follows:

3 The arbitrator shall set the time, date, and place of the hearing
4 and shall give reasonable notice of the hearing date to the parties.
5 Except by stipulation or for good cause shown, the hearing shall be
6 scheduled to take place not sooner than twenty-one days, nor later
7 than seventy-five days, from the date of the assignment of the case
8 to the arbitrator. The hearing shall take place in appropriate
9 facilities provided or authorized by the court.

10 NEW SECTION. **Sec. 5.** A new section is added to chapter 7.06 RCW
11 to read as follows:

12 After the assignment of a case to the arbitrator, a party may
13 conduct discovery as follows: (1) Demand a specification of damages
14 under RCW 4.28.360; (2) request from the arbitrator an examination
15 under CR 35; (3) request admissions from a party under CR 36; and (4)
16 take the deposition of another party. A party may request additional
17 discovery from the arbitrator, including interrogatories, and the
18 arbitrator will allow additional discovery only as reasonably
19 necessary.

20 **Sec. 6.** RCW 7.06.050 and 2011 c 336 s 164 are each amended to
21 read as follows:

22 (1) Following a hearing as prescribed by court rule, the
23 arbitrator shall file his or her decision and award with the clerk of
24 the superior court, together with proof of service thereof on the
25 parties. Within twenty days after such filing, any aggrieved party
26 may file with the clerk a written notice of appeal and request for a
27 trial de novo in the superior court on all issues of law and fact.
28 The notice must be signed by the party. Such trial de novo shall
29 thereupon be held, including a right to jury, if demanded.

30 (a) Up to thirty days prior to the actual date of a trial de
31 novo, a nonappealing party may serve upon the appealing party a
32 written offer of compromise.

33 (b) In any case in which an offer of compromise is not accepted
34 by the appealing party within ten calendar days after service
35 thereof, for purposes of MAR 7.3, the amount of the offer of
36 compromise shall replace the amount of the arbitrator's award for
37 determining whether the party appealing the arbitrator's award has
38 failed to improve that party's position on the trial de novo.

1 (c) A postarbitration offer of compromise shall not be filed or
2 communicated to the court or the trier of fact until after judgment
3 on the trial de novo, at which time a copy of the offer of compromise
4 shall be filed for purposes of determining whether the party who
5 appealed the arbitrator's award has failed to improve that party's
6 position on the trial de novo, pursuant to MAR 7.3.

7 (2) If no appeal has been filed at the expiration of twenty days
8 following filing of the arbitrator's decision and award, a judgment
9 shall be entered and may be presented to the court by any party, on
10 notice, which judgment when entered shall have the same force and
11 effect as judgments in civil actions.

12 **Sec. 7.** RCW 36.18.016 and 2009 c 417 s 2 are each amended to
13 read as follows:

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

16 (2)(a) For the filing of a petition for modification of a decree
17 of dissolution or paternity, within the same case as the original
18 action, and any party filing a counterclaim, cross-claim, or third-
19 party claim in any such action, a fee of thirty-six dollars must be
20 paid.

21 (b) The party filing the first or initial petition for
22 dissolution, legal separation, or declaration concerning the validity
23 of marriage shall pay, at the time and in addition to the filing fee
24 required under RCW 36.18.020, a fee of thirty dollars. The clerk of
25 the superior court shall transmit monthly twenty-four dollars of the
26 thirty dollar fee collected under this subsection to the state
27 treasury for deposit in the domestic violence prevention account. The
28 remaining six dollars shall be retained by the county for the purpose
29 of supporting community-based services within the county for victims
30 of domestic violence, except for five percent of the six dollars,
31 which may be retained by the court for administrative purposes.

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

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

5 (4) For preparing a certified copy of an instrument on file or of
6 record in the clerk's office, for the first page or portion of the
7 first page, a fee of five dollars, and for each additional page or
8 portion of a page, a fee of one dollar must be charged. For
9 authenticating or exemplifying an instrument, a fee of two dollars
10 for each additional seal affixed must be charged. For preparing a
11 copy of an instrument on file or of record in the clerk's office
12 without a seal, a fee of fifty cents per page must be charged. When
13 copying a document without a seal or file that is in an electronic
14 format, a fee of twenty-five cents per page must be charged. For
15 copies made on a compact disc, an additional fee of twenty dollars
16 for each compact disc must be charged.

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

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

22 (7) For filing a supplemental proceeding, a fee of twenty dollars
23 must be charged.

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

27 (9) For the issuance of a certificate of qualification and a
28 certified copy of letters of administration, letters testamentary, or
29 letters of guardianship, there must be a fee of five dollars.

30 (10) For the preparation of a passport application, the clerk may
31 collect an execution fee as authorized by the federal government.

32 (11) For clerk's services such as performing historical searches,
33 compiling statistical reports, and conducting exceptional record
34 searches, the clerk may collect a fee not to exceed thirty dollars
35 per hour.

36 (12) For processing ex parte orders, the clerk may collect a fee
37 of thirty dollars.

38 (13) For duplicated recordings of court's proceedings there must
39 be a fee of ten dollars for each audio tape and twenty-five dollars
40 for each video tape or other electronic storage medium.

1 (14) For registration of land titles, Torrens Act, under RCW
2 65.12.780, a fee of twenty dollars must be charged.

3 (15) For the issuance of extension of judgment under RCW 6.17.020
4 and chapter 9.94A RCW, a fee of two hundred dollars must be charged.
5 When the extension of judgment is at the request of the clerk, the
6 two hundred dollar charge may be imposed as court costs under RCW
7 10.46.190.

8 (16) A facilitator surcharge of up to twenty dollars must be
9 charged as authorized under RCW 26.12.240.

10 (17) For filing ((a water rights statement)) an adjudication
11 claim under RCW 90.03.180, a fee of twenty-five dollars must be
12 charged.

13 (18) For filing a claim of frivolous lien under RCW 60.04.081, a
14 fee of thirty-five dollars must be charged.

15 (19) For preparation of a change of venue, a fee of twenty
16 dollars must be charged by the originating court in addition to the
17 per page charges in subsection (4) of this section.

18 (20) A service fee of five dollars for the first page and one
19 dollar for each additional page must be charged for receiving faxed
20 documents, pursuant to Washington state rules of court, general rule
21 17.

22 (21) For preparation of clerk's papers under RAP 9.7, a fee of
23 fifty cents per page must be charged.

24 (22) For copies and reports produced at the local level as
25 permitted by RCW 2.68.020 and supreme court policy, a variable fee
26 must be charged.

27 (23) Investment service charge and earnings under RCW 36.48.090
28 must be charged.

29 (24) Costs for nonstatutory services rendered by clerk by
30 authority of local ordinance or policy must be charged.

31 (25) For filing a request for mandatory arbitration, a filing fee
32 may be assessed against the party filing a statement of arbitrability
33 not to exceed two hundred ((twenty)) fifty dollars as established by
34 authority of local ordinance. Two hundred twenty dollars of this
35 charge shall be used ((solely)) to offset the cost of the mandatory
36 arbitration program. Thirty dollars of each fee collected under this
37 subsection must be used for indigent defense services in the county
38 where the request for mandatory arbitration is filed.

1 (26) For filing a request for trial de novo of an arbitration
2 award, a fee not to exceed two hundred (~~fifty~~) seventy-five dollars
3 as established by authority of local ordinance must be charged.

4 (27) A public agency may not charge a fee to a law enforcement
5 agency, for preparation, copying, or mailing of certified copies of
6 the judgment and sentence, information, affidavit of probable cause,
7 and/or the notice of requirement to register, of a sex offender
8 convicted in a Washington court, when such records are necessary for
9 risk assessment, preparation of a case for failure to register, or
10 maintenance of a sex offender's registration file.

11 (28) For the filing of a will or codicil under the provisions of
12 chapter 11.12 RCW, a fee of twenty dollars must be charged.

13 (29) For the collection of unpaid legal financial obligations,
14 the clerk may impose an annual fee of up to one hundred dollars,
15 pursuant to RCW 9.94A.780.

16 (30) A surcharge of up to twenty dollars may be charged in
17 dissolution and legal separation actions as authorized by RCW
18 26.12.260.

19 The revenue to counties from the fees established in this section
20 shall be deemed to be complete reimbursement from the state for the
21 state's share of benefits paid to the superior court judges of the
22 state prior to July 24, 2005, and no claim shall lie against the
23 state for such benefits."

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24 On page 1, line 1 of the title, after "proceedings;" strike the
25 remainder of the title and insert "amending RCW 3.66.020, 7.06.020,
26 7.06.040, 7.06.050, and 36.18.016; and adding new sections to chapter
27 7.06 RCW."

EFFECT: (1) Changes the optional mandatory arbitration upper
limit to seventy-five thousand dollars rather than "up to the
jurisdictional limit of the district courts."

(2) Requires MARS list mediators to complete a one-time training
of a minimum of 3 WSBA-approved CLE credits on the professional and
ethical considerations when serving as an arbitrator equivalent to
King county's required video training for attorneys serving on the
MARS list.

(3) Directs thirty dollars of the two hundred fifty dollar
maximum mandatory arbitration filing fee for indigent defense

services in the county where the request for mandatory arbitration is filed.

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