

HOUSE BILL REPORT

SHB 1196

As Passed House:
March 6, 2017

Title: An act relating to modifying the process for prevailing parties to recover judgments in small claims court.

Brief Description: Modifying the process for prevailing parties to recover judgments in small claims court.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Goodman, Rodne, Jinkins, Kilduff, McBride and Barkis).

Brief History:

Committee Activity:

Judiciary: 1/18/17, 1/26/17 [DPS];
Appropriations: 2/15/17, 2/22/17 [DPS(JUDI)].

Floor Activity:

Passed House: 3/6/17, 96-2.

Brief Summary of Substitute Bill

- Changes certain fees associated with small claims court, raising the filing fee from \$14 to \$34 while removing another fee by requiring that a small claims judgment be certified and entered on the district court judgment docket, and a copy provided to the prevailing party, without any additional fee.
- Modifies other provisions relating to small claims actions, and associated collection efforts predicated on a small claims judgment

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Muri, Assistant Ranking Minority Member; Frame, Goodman, Graves, Haler, Hansen, Kirby, Klippert, Orwall and Shea.

Staff: Cece Clynch (786-7195).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Judiciary be substituted therefor and the substitute bill do pass. Signed by 28 members: Representatives Ormsby, Chair; Robinson, Vice Chair; MacEwen, Assistant Ranking Minority Member; Bergquist, Buys, Caldier, Cody, Fitzgibbon, Haler, Hansen, Harris, Hudgins, Jinkins, Kagi, Lytton, Nealey, Pettigrew, Pollet, Sawyer, Schmick, Senn, Springer, Stanford, Sullivan, Tharinger, Vick, Volz and Wilcox.

Minority Report: Do not pass. Signed by 3 members: Representatives Chandler, Ranking Minority Member; Condotta and Taylor.

Minority Report: Without recommendation. Signed by 2 members: Representatives Stokesbary, Assistant Ranking Minority Member; Manweller.

Staff: Meghan Morris (786-7119).

Background:

In every district court, there is a small claims department with jurisdiction in cases for the recovery of money only for an amount up to \$5,000. Attorneys and paralegals are excluded from appearing or participating in a small claims suit unless the judge grants permission. When the claim is filed, a filing fee of \$14 must be paid. Any party filing a counterclaim, cross-claim, or third-party claim in the action must also pay a \$14 filing fee. If the county legislative authority has imposed a surcharge for Dispute Resolution Centers, there may be an additional surcharge of up to \$15 on each filing fee.

A claim filed in small claims court must contain:

- the name and address of the plaintiff;
- a statement, in brief and concise form, of the nature and amount of the claim and when the claim accrued; and
- the name and residence of the defendant, if known to the plaintiff, for the purpose of service.

Upon filing of the claim, the court sets a time for hearing and issues a notice of claim. A notice of claim must be served promptly and at least 10 days prior to the first hearing. Service may be either as provided for the service of summons or complaint and notice in civil actions or by registered or certified mail if a return receipt with the signature of the party being served is filed with the court.

A trial need not be held on the first appearance of the defendant if dispute resolution services are offered instead of trial, or local practice rules provide that trials will be held on different days.

If a money judgment is entered, and the judgment is not paid within 30 days or the time set by the court on any payment plan, the prevailing party must take certain steps before commencing collection efforts. The prevailing party must first request the clerk to certify the judgment and have a transcript of the judgment entered onto the district court civil

docket. The fee for this is \$20, and the certification form is specified in statute. The judgment is increased by an amount sufficient to cover the costs of certification, and any other costs incurred by the prevailing party to enforce the judgment, without regard to the jurisdictional limits on the small claims court.

Once entered on the district court docket, the prevailing party may proceed with a method of collection such as garnishment of wages and bank accounts, or execution on cars, boats, or other personal property of the judgment debtor. The prevailing party could also take and file the judgment transcript in the superior court. This would allow collection efforts against real property that the judgment debtor might own, in addition to his or her personal property. In such case, the judgment would be increased by the cost of this filing.

Summary of Substitute Bill:

The filing fee for claims, counterclaims, cross-claims, and third-party claims is raised from \$14 to \$34. There is no longer an additional fee to obtain a certified copy of a judgment; a certified copy of the judgment must be provided to the prevailing party for no additional fee.

Upon entry of a judgment in a small claims action, the judgment is automatically certified as a district court civil judgment and entered on the district court judgment docket. The filing of a duly certified district court judgment, or a duly certified transcript of the docket of the district court, in superior court commences the lien on real estate of the judgment debtor. The judgment is increased by any post judgment interest, as well as any filing fee associated with filing in superior court.

The section which specified the exact form of the certification is repealed. Other provisions of that repealed statute are moved elsewhere.

Amendments are made to other sections regarding the first hearing, method of service, and what the claim must include, as follows:

- The reference to "first appearance" is replaced with "first hearing." The trial need not be held at the first hearing if local practice rules provide for a pretrial hearing.
- Specific citation to the statute regarding methods of service is included.
- The requirement that service be accomplished at least 10 days before the hearing refers to calendar days.
- A plaintiff's statement regarding the claim must be sworn.
- An expired provision related to a temporary surcharge on small claims filing fees is stricken, as is a reference to this provision.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Judiciary):

(In support) This is a good little bill and will mean a lot to persons who go to small claims court. The current process is cumbersome and difficult to understand. Despite the fact that small claims courts are in the district courts, once a judgment is obtained, the small claims judgment creditor must go to the district court clerk and pay another \$20 to get it certified. The bill will make the process easier. While it raises the filing fee, it also eliminates the \$20 fee for certification. Small claims actions can be very emotional, and at the end of the proceeding many people have a lot of questions about how to collect the money. The current process was adopted back in the early 1900s when clerks handwrote judgments into big books. This bill will simplify the process. There is one technical amendment to RCW 4.56.200, which is the lien statute. The statute currently requires the filing of a "duly certified transcript of the docket of the district court," which has a very specific meaning. The amendment will allow the filing of a duly certified district court judgment.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) Substitute House Bill 1196 would simplify the process for small claims. The process is archaic and was initially adopted in 1919. A filing fee enables parties to receive a civil judgment immediately. The bill eliminates the ambiguity of whether interest accrues on a small claims judgment. It also eliminates ambiguity concerning small claims judgment expiration dates. The bill provides for a free certified copy of the judgment, which is a \$5 savings to each party. District courts are seeing cases that are more complicated. If the bill is adopted without a fee increase, it would result in a loss of revenue.

(Opposed) None.

Persons Testifying (Judiciary): Representative Goodman, prime sponsor; and Janet Garrow, District and Municipal Court Judges Association.

Persons Testifying (Appropriations): Justice Garrow, District and Municipal Court Judges Association.

Persons Signed In To Testify But Not Testifying (Judiciary): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.