

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1022

Chapter 240, Laws of 2009

61st Legislature
2009 Regular Session

CIVIL ACTIONS--COST RECOVERY

EFFECTIVE DATE: 07/26/09

Passed by the House March 3, 2009
Yeas 97 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 13, 2009
Yeas 45 Nays 0

BRAD OWEN

President of the Senate

Approved April 28, 2009, 3:36 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1022** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 29, 2009

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1022

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By House Judiciary (originally sponsored by Representatives Williams, Warnick, Kelley, Rodne, Dickerson, and Moeller)

READ FIRST TIME 02/02/09.

1 AN ACT Relating to statutory costs; amending RCW 4.84.010 and
2 12.20.060; and adding a new section to chapter 4.84 RCW.

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

4 **Sec. 1.** RCW 4.84.010 and 2007 c 121 s 1 are each amended to read
5 as follows:

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

13 (1) Filing fees;

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

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

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

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

4 (3) Fees for service by publication;

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

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

14 (6) Statutory attorney and witness fees; and

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

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 4.84 RCW
22 to read as follows:

23 (1) In any civil action for the recovery of money only, the
24 plaintiff will be considered the prevailing party for the purpose of
25 awarding costs, including a statutory attorney fee, if: (a) The
26 defendant makes full or partial payment of the amounts sought by the
27 plaintiff prior to the entry of judgment; and (b) before such payment
28 is tendered, the plaintiff has notified the defendant in writing that
29 the full or partial payment of the amounts sued for might result in an
30 award of costs.

31 (2) For the purposes of this section, "plaintiff" includes a
32 counter-claimant, cross-claimant, and third-party plaintiff, and
33 "defendant" includes a party defending a counter-claim, cross-claim, or
34 third-party claim.

35 (3) A party may demand, offer, or accept the payment of statutory
36 costs before the entry of judgment in an action.

1 (4) This section may not be construed to (a) authorize an award of
2 costs if the action is resolved by a negotiated settlement or (b) limit
3 or bar the operation of cost-shifting provisions of other statutes or
4 court rules.

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

7 (1) When the prevailing party in district court is entitled to
8 recover costs as authorized in RCW 4.84.010 in a civil action, the
9 judge shall add the amount thereof to the judgment; in case of failure
10 of the plaintiff to recover or of dismissal of the action, the judge
11 shall enter up a judgment in favor of the defendant for the amount of
12 his or her costs; and in case any party so entitled to costs is
13 represented in the action by an attorney, the judge shall include
14 attorney's fees in the amount provided in RCW ((4.84.060)) 4.84.080 as
15 part of the costs: PROVIDED, HOWEVER, That the plaintiff shall not be
16 entitled to such attorney fee unless he or she obtains, exclusive of
17 costs, a judgment in the sum of fifty dollars or more: AND PROVIDED
18 FURTHER, That if the plaintiff obtains judgment, exclusive of costs, of
19 at least fifty dollars but less than two hundred dollars, the judge
20 shall include attorney fees of one hundred twenty-five dollars as part
21 of the costs.

22 (2)(a) In any district court civil action for the recovery of money
23 only, the plaintiff will be considered the prevailing party for the
24 purpose of awarding costs, including a statutory attorney fee, if: (i)
25 The defendant makes full or partial payment of the amounts sought by
26 the plaintiff prior to the entry of judgment; and (ii) before such
27 payment is tendered, the plaintiff has notified the defendant in
28 writing that the full or partial payment of the amounts sued for might
29 result in an award of costs. The plaintiff is not entitled to a
30 statutory attorney fee unless the amount prayed for, exclusive of
31 costs, is fifty dollars or more, and if the amount prayed for,
32 exclusive of costs, is at least fifty dollars but less than two hundred
33 dollars, the judgment must include a statutory attorney fee of one
34 hundred twenty-five dollars as part of the costs.

35 (b) For the purposes of this section, "plaintiff" includes a
36 counter-claimant, cross-claimant, and third-party plaintiff, and

1 "defendant" includes a party defending a counter-claim, cross-claim, or
2 third-party claim.

3 (c) A party may demand, offer, or accept payment of statutory costs
4 before the entry of judgment in an action.

5 (d) This section may not be construed to (a) authorize an award of
6 costs if the action is resolved by a negotiated settlement or (b) limit
7 or bar the operation of cost-shifting provisions of other statutes or
8 court rules.

Passed by the House March 3, 2009.

Passed by the Senate April 13, 2009.

Approved by the Governor April 28, 2009.

Filed in Office of Secretary of State April 29, 2009.