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HOUSE BILL 1231

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State of Washington                      56th Legislature                      1999 Regular Session

By Representatives Constantine and Sheahan

Read first time 01/19/1999. Referred to Committee on Judiciary.

1            AN ACT Relating to court filing fees; and 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, 51.32.240, 51.48.140, 82.32.210, 82.36.047, and 82.38.235.

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

5            **Sec. 1.** RCW 36.18.012 and 1996 c 211 s 1 are each amended to read  
6 as follows:

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

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

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

16           ~~(4))~~) The clerk shall collect a fee of twenty dollars for: Filing  
17 a paper not related to or a part of a proceeding, civil or criminal, or  
18 a probate matter, required or permitted to be filed in the clerk's  
19 office for which no other charge is provided by law.

1       (~~(5)~~) (4) If the defendant serves or files an answer to an  
2 unlawful detainer complaint under chapter 59.18 or 59.20 RCW, the  
3 plaintiff shall pay before proceeding with the unlawful detainer action  
4 eighty dollars.

5       (~~(6)~~) (5) For a restrictive covenant for filing a petition to  
6 strike discriminatory provisions in real estate under RCW 49.60.227 a  
7 fee of twenty dollars must be charged.

8       (~~(7)~~) (6) A fee of twenty dollars must be charged for filing a  
9 will only, when no probate of the will is contemplated.

10       (~~(8)~~) (7) A fee of two dollars must be charged for filing a  
11 petition, written agreement, or written memorandum in a nonjudicial  
12 probate dispute under RCW 11.96.170.

13       (~~(9)~~) (8) A fee of thirty-five dollars must be charged for filing  
14 a petition regarding a common law lien under RCW 60.70.060.

15       (~~(10)~~) (9) For certification of delinquent taxes by a county  
16 treasurer under RCW 84.64.190, a fee of five dollars must be charged.

17       **Sec. 2.** RCW 36.18.016 and 1996 c 56 s 5 are each amended to read  
18 as follows:

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

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

24       (3) The party making a demand for a jury of six in a civil action  
25 shall pay, at the time, a fee of fifty dollars; if the demand is for a  
26 jury of twelve, a fee of one hundred dollars. If, after the party  
27 demands a jury of six and pays the required fee, any other party to the  
28 action requests a jury of twelve, an additional fifty-dollar fee will  
29 be required of the party demanding the increased number of jurors.  
30 Upon conviction in criminal cases a jury demand charge may be imposed  
31 as costs under RCW 10.46.190.

32       (4) For preparing, transcribing, or certifying an instrument on  
33 file or of record in the clerk's office, with or without seal, for the  
34 first page or portion of the first page, a fee of two dollars, and for  
35 each additional page or portion of a page, a fee of one dollar must be  
36 charged. For authenticating or exemplifying an instrument, a fee of  
37 one dollar for each additional seal affixed must be charged.

- 1 (5) For executing a certificate, with or without a seal, a fee of  
2 two dollars must be charged.
- 3 (6) For a garnishee defendant named in an affidavit for garnishment  
4 and for a writ of attachment, a fee of twenty dollars must be charged.
- 5 (7) For approving a bond, including justification on the bond, in  
6 other than civil actions and probate proceedings, a fee of two dollars  
7 must be charged.
- 8 (8) For the issuance of a certificate of qualification and a  
9 certified copy of letters of administration, letters testamentary, or  
10 letters of guardianship, there must be a fee of two dollars.
- 11 (9) For the preparation of a passport application, the clerk may  
12 collect an execution fee as authorized by the federal government.
- 13 (10) For clerk's (~~special~~) services such as processing ex parte  
14 orders (~~by mail~~), performing historical searches, compiling  
15 statistical reports, and conducting exceptional record searches, the  
16 clerk may collect a fee not to exceed twenty dollars per hour or  
17 portion of an hour.
- 18 (11) For duplicated recordings of court's proceedings there must be  
19 a fee of ten dollars for each audio tape and twenty-five dollars for  
20 each video tape.
- 21 (12) For the filing of oaths and affirmations under chapter 5.28  
22 RCW, a fee of twenty dollars must be charged.
- 23 (13) For filing a disclaimer of interest under RCW 11.86.031(4), a  
24 fee of (~~two~~) twenty dollars must be charged.
- 25 (14) For registration of land titles, Torrens Act, under RCW  
26 65.12.780, a fee of five dollars must be charged.
- 27 (15) For the issuance of extension of judgment under RCW 6.17.020  
28 and chapter 9.94A RCW, a fee of one hundred ten dollars must be  
29 charged.
- 30 (16) A facilitator surcharge of ten dollars must be charged as  
31 authorized under RCW 26.12.240.
- 32 (17) For filing a water rights statement under RCW 90.03.180, a fee  
33 of twenty-five dollars must be charged.
- 34 (18) For filing a warrant for overpayment of state retirement  
35 systems benefits under chapter 41.50 RCW, a fee of five dollars shall  
36 be charged pursuant to RCW 41.50.136; for such warrants filed after  
37 July 1, 2001, a fee of twenty dollars shall be paid.
- 38 (19) A service fee of three dollars for the first page and one  
39 dollar for each additional page must be charged for receiving faxed

1 documents, pursuant to Washington state rules of court, general rule  
2 17.

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

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

8 (22) Investment service charge and earnings under RCW 36.48.090  
9 must be charged.

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

12 (24) For the filing of a tax warrant for unpaid taxes or  
13 overpayment of benefits by any agency of the state of Washington, a fee  
14 of five dollars on or after July 1, 1999; for the filing of such a tax  
15 warrant on or after July 1, 2001, a fee of twenty dollars.

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

18 State agencies shall collect a surcharge of twenty dollars from the  
19 judgment debtor upon the satisfaction of a warrant filed in superior  
20 court for unpaid taxes or liabilities. The surcharge is imposed on the  
21 judgment debtor in the form of a penalty in addition to the filing fee  
22 provided in RCW (~~(36.18.012(3))~~) 36.18.016(24). The surcharge revenue  
23 shall be transmitted to the state treasurer for deposit in the archives  
24 and records management account.

25 Surcharge revenue deposited in the archives and records management  
26 account shall be expended by the secretary of state exclusively for  
27 disaster recovery, essential records protection services, and records  
28 management training for local government agencies by the division of  
29 archives and records management. The secretary of state shall, with  
30 local government representatives, establish a committee to advise the  
31 state archivist on the local government archives and records management  
32 program.

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

35 Whenever a notice of determination of liability becomes conclusive  
36 and final under RCW 41.50.135, the director, upon giving at least  
37 twenty days notice by certified mail return receipt requested to the

1 individual's last known address of the intended action, may file with  
2 the superior court clerk of any county within the state a warrant in  
3 the amount of the notice of determination of liability plus a filing  
4 fee (~~(of five dollars payable)~~) under RCW 36.18.016. The clerk of the  
5 county where the warrant is filed shall immediately designate a  
6 superior court cause number for the warrant, and the clerk shall cause  
7 to be entered in the judgment docket under the superior court cause  
8 number assigned to the warrant, the name of the person mentioned in the  
9 warrant, the amount of the notice of determination of liability, and  
10 the date when the warrant was filed. The amount of the warrant as  
11 docketed shall become a lien upon the title to, and any interest in,  
12 all real and personal property of the person against whom the warrant  
13 is issued, the same as a judgment in a civil case duly docketed in the  
14 office of such clerk. A copy of the warrant shall be mailed to the  
15 person mentioned in the warrant by certified mail to the person's last  
16 known address within five days of its filing with the clerk.

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

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

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

3       (1) An individual who is paid any amount as benefits under this  
4 title to which he or she is not entitled shall, unless otherwise  
5 relieved pursuant to this section, be liable for repayment of the  
6 amount overpaid. The department shall issue an overpayment assessment  
7 setting forth the reasons for and the amount of the overpayment. The  
8 amount assessed, to the extent not collected, may be deducted from any  
9 future benefits payable to the individual: PROVIDED, That in the  
10 absence of a back pay award, a settlement affecting the allowance of  
11 benefits, fraud, misrepresentation, or willful nondisclosure, every  
12 determination of liability shall be mailed or personally served not  
13 later than two years after the close of or final payment made on the  
14 individual's applicable benefit year for which the purported  
15 overpayment was made, whichever is later, unless the merits of the  
16 claim are subjected to administrative or judicial review in which event  
17 the period for serving the determination of liability shall be extended  
18 to allow service of the determination of liability during the six-month  
19 period following the final decision affecting the claim.

20       (2) The commissioner may waive an overpayment if the commissioner  
21 finds that (~~said~~) the overpayment was not the result of fraud,  
22 misrepresentation, willful nondisclosure, or fault attributable to the  
23 individual and that the recovery thereof would be against equity and  
24 good conscience: PROVIDED, HOWEVER, That the overpayment so waived  
25 shall be charged against the individual's applicable entitlement for  
26 the eligibility period containing the weeks to which the overpayment  
27 was attributed as though such benefits had been properly paid.

28       (3) Any assessment herein provided shall constitute a determination  
29 of liability from which an appeal may be had in the same manner and to  
30 the same extent as provided for appeals relating to determinations in  
31 respect to claims for benefits: PROVIDED, That an appeal from any  
32 determination covering overpayment only shall be deemed to be an appeal  
33 from the determination which was the basis for establishing the  
34 overpayment unless the merits involved in the issue set forth in such  
35 determination have already been heard and passed upon by the appeal  
36 tribunal. If no such appeal is taken to the appeal tribunal by the  
37 individual within thirty days of the delivery of the notice of  
38 determination of liability, or within thirty days of the mailing of the  
39 notice of determination, whichever is the earlier, (~~said~~) the

1 determination of liability shall be deemed conclusive and final.  
2 Whenever any such notice of determination of liability becomes  
3 conclusive and final, the commissioner, upon giving at least twenty  
4 days notice by certified mail return receipt requested to the  
5 individual's last known address of the intended action, may file with  
6 the superior court clerk of any county within the state a warrant in  
7 the amount of the notice of determination of liability plus a filing  
8 fee (~~(of five dollars)~~) under RCW 36.18.016. The clerk of the county  
9 where the warrant is filed shall immediately designate a superior court  
10 cause number for the warrant, and the clerk shall cause to be entered  
11 in the judgment docket under the superior court cause number assigned  
12 to the warrant, the name of the person(s) mentioned in the warrant, the  
13 amount of the notice of determination of liability, and the date when  
14 the warrant was filed. The amount of the warrant as docketed shall  
15 become a lien upon the title to, and any interest in, all real and  
16 personal property of the person(s) against whom the warrant is issued,  
17 the same as a judgment in a civil case duly docketed in the office of  
18 such clerk. A warrant so docketed shall be sufficient to support the  
19 issuance of writs of execution and writs of garnishment in favor of the  
20 state in the manner provided by law for a civil judgment. A copy of  
21 the warrant shall be mailed to the person(s) mentioned in the warrant  
22 by certified mail to the person's last known address within five days  
23 of its filing with the clerk.

24 (4) On request of any agency which administers an employment  
25 security law of another state, the United States, or a foreign  
26 government and which has found in accordance with the provisions of  
27 such law that a claimant is liable to repay benefits received under  
28 such law, the commissioner may collect the amount of such benefits from  
29 the claimant to be refunded to the agency. In any case in which under  
30 this section a claimant is liable to repay any amount to the agency of  
31 another state, the United States, or a foreign government, such amounts  
32 may be collected without interest by civil action in the name of the  
33 commissioner acting as agent for such agency if the other state, the  
34 United States, or the foreign government extends such collection rights  
35 to the employment security department of the state of Washington, and  
36 provided that the court costs be paid by the governmental agency  
37 benefiting from such collection.

38 (5) Any employer who is a party to a back pay award or settlement  
39 due to loss of wages shall, within thirty days of the award or

1 settlement, report to the department the amount of the award or  
2 settlement, the name and social security number of the recipient of the  
3 award or settlement, and the period for which it is awarded. When an  
4 individual has been awarded or receives back pay, for benefit purposes  
5 the amount of the back pay shall constitute wages paid in the period  
6 for which it was awarded. For contribution purposes, the back pay  
7 award or settlement shall constitute wages paid in the period in which  
8 it was actually paid. The following requirements shall also apply:

9 (a) The employer shall reduce the amount of the back pay award or  
10 settlement by an amount determined by the department based upon the  
11 amount of unemployment benefits received by the recipient of the award  
12 or settlement during the period for which the back pay award or  
13 settlement was awarded;

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

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

21 (d) If the employer fails to reduce the amount of the back pay  
22 award or settlement as required in (a) of this subsection, the  
23 department shall issue an overpayment assessment against the recipient  
24 of the award or settlement in the amount that the back pay award or  
25 settlement should have been reduced; and

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

31 (6) When an individual fails to repay an overpayment assessment  
32 that is due and fails to arrange for satisfactory repayment terms, the  
33 commissioner shall impose an interest penalty of one percent per month  
34 of the outstanding balance. Interest shall accrue immediately on  
35 overpayments assessed pursuant to RCW 50.20.070 and shall be imposed  
36 when the assessment becomes final. For any other overpayment, interest  
37 shall accrue when the individual has missed two or more of their  
38 monthly payments either partially or in full. The interest penalty



1 shall be used to fund detection and recovery of overpayment and  
2 collection activities.

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

5 Whenever any order and notice of assessment or jeopardy assessment  
6 shall have become final in accordance with the provisions of this title  
7 the commissioner may file with the clerk of any county within the state  
8 a warrant in the amount of the notice of assessment plus interest,  
9 penalties, and a filing fee (~~(of five dollars)~~) under RCW 36.18.016.  
10 The clerk of the county wherein the warrant is filed shall immediately  
11 designate a superior court cause number for such warrant, and the clerk  
12 shall cause to be entered in the judgment docket under the superior  
13 court cause number assigned to the warrant, the name of the employer  
14 mentioned in the warrant, the amount of the tax, interest, penalties,  
15 and filing fee and the date when such warrant was filed. The aggregate  
16 amount of such warrant as docketed shall become a lien upon the title  
17 to, and interest in all real and personal property of the employer  
18 against whom the warrant is issued, the same as a judgment in a civil  
19 case duly docketed in the office of such clerk. Such warrant so  
20 docketed shall be sufficient to support the issuance of writs of  
21 execution and writs of garnishment in favor of the state in the manner  
22 provided by law in the case of civil judgment, wholly or partially  
23 unsatisfied. The clerk of the court shall be entitled to a filing fee  
24 (~~(of five dollars)~~) under RCW 36.18.016, which shall be added to the  
25 amount of the warrant, and charged by the commissioner to the employer  
26 or employing unit. A copy of the warrant shall be mailed to the  
27 employer or employing unit by certified mail to his last known address  
28 within five days of filing with the clerk.

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

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

34 (a) The costs and reasonable attorneys' fees shall be paid  
35 proportionately by the injured worker or beneficiary and the department  
36 and/or self-insurer: PROVIDED, That the department and/or self-insurer  
37 may require court approval of costs and attorneys' fees or may petition

1 a court for determination of the reasonableness of costs and attorneys'  
2 fees;

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

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

10 (i) The department and/or self-insurer shall bear its proportionate  
11 share of the costs and reasonable attorneys' fees incurred by the  
12 worker or beneficiary to the extent of the benefits paid under this  
13 title: PROVIDED, That the department's and/or self-insurer's  
14 proportionate share shall not exceed one hundred percent of the costs  
15 and reasonable attorneys' fees;

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

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

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

26 (e) Thereafter no payment shall be made to or on behalf of a worker  
27 or beneficiary by the department and/or self-insurer for such injury  
28 until the amount of any further compensation and benefits shall equal  
29 any such remaining balance minus the department's and/or self-insurer's  
30 proportionate share of the costs and reasonable attorneys' fees in  
31 regards to the remaining balance. This proportionate share shall be  
32 determined by dividing the gross recovery amount into the remaining  
33 balance amount and multiplying this percentage times the costs and  
34 reasonable attorneys' fees incurred by the worker or beneficiary.  
35 Thereafter, such benefits shall be paid by the department and/or self-  
36 insurer to or on behalf of the worker or beneficiary as though no  
37 recovery had been made from a third person.

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

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

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

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

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

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

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

21 (6) The distribution of any recovery made by award or settlement of  
22 the third party action shall be confirmed by department order, served  
23 by registered or certified mail, and shall be subject to chapter 51.52  
24 RCW. In the event the order of distribution becomes final under  
25 chapter 51.52 RCW, the director or the director's designee may file  
26 with the clerk of any county within the state a warrant in the amount  
27 of the sum representing the unpaid lien plus interest accruing from the  
28 date the order became final. The clerk of the county in which the  
29 warrant is filed shall immediately designate a superior court cause  
30 number for such warrant and the clerk shall cause to be entered in the  
31 judgment docket under the superior court cause number assigned to the  
32 warrant, the name of such worker or beneficiary mentioned in the  
33 warrant, the amount of the unpaid lien plus interest accrued and the  
34 date when the warrant was filed. The amount of such warrant as  
35 docketed shall become a lien upon the title to and interest in all real  
36 and personal property of the injured worker or beneficiary against whom  
37 the warrant is issued, the same as a judgment in a civil case docketed  
38 in the office of such clerk. The sheriff shall then proceed in the  
39 same manner and with like effect as prescribed by law with respect to

1 execution or other process issued against rights or property upon  
2 judgment in the superior court. Such warrant so docketed shall be  
3 sufficient to support the issuance of writs of garnishment in favor of  
4 the department in the manner provided by law in the case of judgment,  
5 wholly or partially unsatisfied. The clerk of the court shall be  
6 entitled to a filing fee (~~(of five dollars)~~) under RCW 36.18.016, which  
7 shall be added to the amount of the warrant. A copy of such warrant  
8 shall be mailed to the injured worker or beneficiary within three days  
9 of filing with the clerk.

10 (7) The director, or the director's designee, may issue to any  
11 person, firm, corporation, municipal corporation, political subdivision  
12 of the state, public corporation, or agency of the state, a notice and  
13 order to withhold and deliver property of any kind if he or she has  
14 reason to believe that there is in the possession of such person, firm,  
15 corporation, municipal corporation, political subdivision of the state,  
16 public corporation, or agency of the state, property which is due,  
17 owing, or belonging to any worker or beneficiary upon whom a warrant  
18 has been served by the department for payments due to the state fund.  
19 The notice and order to withhold and deliver shall be served by the  
20 sheriff of the county or by the sheriff's deputy; by certified mail,  
21 return receipt requested; or by any authorized representatives of the  
22 director. Any person, firm, corporation, municipal corporation,  
23 political subdivision of the state, public corporation, or agency of  
24 the state upon whom service has been made shall answer the notice  
25 within twenty days exclusive of the day of service, under oath and in  
26 writing, and shall make true answers to the matters inquired of in the  
27 notice and order to withhold and deliver. In the event there is in the  
28 possession of the party named and served with such notice and order,  
29 any property which may be subject to the claim of the department, such  
30 property shall be delivered forthwith to the director or the director's  
31 authorized representative upon demand. If the party served and named  
32 in the notice and order fails to answer the notice and order within the  
33 time prescribed in this section, the court may, after the time to  
34 answer such order has expired, render judgment by default against the  
35 party named in the notice for the full amount claimed by the director  
36 in the notice together with costs. In the event that a notice to  
37 withhold and deliver is served upon an employer and the property found  
38 to be subject thereto is wages, the employer may assert in the answer

1 to all exemptions provided for by chapter 6.27 RCW to which the wage  
2 earner may be entitled.

3 **Sec. 9.** RCW 51.32.240 and 1991 c 88 s 1 are each amended to read  
4 as follows:

5 (1) Whenever any payment of benefits under this title is made  
6 because of clerical error, mistake of identity, innocent  
7 misrepresentation by or on behalf of the recipient thereof mistakenly  
8 acted upon, or any other circumstance of a similar nature, all not  
9 induced by fraud, the recipient thereof shall repay it and recoupment  
10 may be made from any future payments due to the recipient on any claim  
11 with the state fund or self-insurer, as the case may be. The  
12 department or self-insurer, as the case may be, must make claim for  
13 such repayment or recoupment within one year of the making of any such  
14 payment or it will be deemed any claim therefor has been waived. The  
15 director, pursuant to rules adopted in accordance with the procedures  
16 provided in the administrative procedure act, chapter 34.05 RCW, may  
17 exercise his discretion to waive, in whole or in part, the amount of  
18 any such timely claim where the recovery would be against equity and  
19 good conscience.

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

32 (3) Whenever any payment of benefits under this title has been made  
33 pursuant to an adjudication by the department or by order of the board  
34 or any court and timely appeal therefrom has been made where the final  
35 decision is that any such payment was made pursuant to an erroneous  
36 adjudication, the recipient thereof shall repay it and recoupment may  
37 be made from any future payments due to the recipient on any claim with  
38 the state fund or self-insurer, as the case may be. The director,

1 pursuant to rules adopted in accordance with the procedures provided in  
2 the administrative procedure act, chapter 34.05 RCW, may exercise his  
3 discretion to waive, in whole or in part, the amount of any such  
4 payments where the recovery would be against equity and good  
5 conscience.

6 (4) Whenever any payment of benefits under this title has been  
7 induced by fraud the recipient thereof shall repay any such payment  
8 together with a penalty of fifty percent of the total of any such  
9 payments and the amount of such total sum may be recouped from any  
10 future payments due to the recipient on any claim with the state fund  
11 or self-insurer against whom the fraud was committed, as the case may  
12 be, and the amount of such penalty shall be placed in the supplemental  
13 pension fund. Such repayment or recoupment must be demanded or ordered  
14 within one year of the discovery of the fraud.

15 (5) The worker, beneficiary, or other person affected thereby shall  
16 have the right to contest an order assessing an overpayment pursuant to  
17 this section in the same manner and to the same extent as provided  
18 under RCW 51.52.050 and 51.52.060. In the event such an order becomes  
19 final under chapter 51.52 RCW and notwithstanding the provisions of  
20 subsections (1) through (4) of this section, the director, director's  
21 designee, or self-insurer may file with the clerk in any county within  
22 the state a warrant in the amount of the sum representing the unpaid  
23 overpayment and/or penalty plus interest accruing from the date the  
24 order became final. The clerk of the county in which the warrant is  
25 filed shall immediately designate a superior court cause number for  
26 such warrant and the clerk shall cause to be entered in the judgment  
27 docket under the superior court cause number assigned to the warrant,  
28 the name of the worker, beneficiary, or other person mentioned in the  
29 warrant, the amount of the unpaid overpayment and/or penalty plus  
30 interest accrued, and the date the warrant was filed. The amount of  
31 the warrant as docketed shall become a lien upon the title to and  
32 interest in all real and personal property of the worker, beneficiary,  
33 or other person against whom the warrant is issued, the same as a  
34 judgment in a civil case docketed in the office of such clerk. The  
35 sheriff shall then proceed in the same manner and with like effect as  
36 prescribed by law with respect to execution or other process issued  
37 against rights or property upon judgment in the superior court. Such  
38 warrant so docketed shall be sufficient to support the issuance of  
39 writs of garnishment in favor of the department or self-insurer in the

1 manner provided by law in the case of judgment, wholly or partially  
2 unsatisfied. The clerk of the court shall be entitled to a filing fee  
3 (~~of five dollars~~) under RCW 36.18.016, which shall be added to the  
4 amount of the warrant. A copy of such warrant shall be mailed to the  
5 worker, beneficiary, or other person within three days of filing with  
6 the clerk.

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

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

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

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

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



1 court shall be entitled to a filing fee (~~of five dollars~~) under RCW  
2 36.18.016, which shall be added to the amount of the warrant. A copy  
3 of such warrant shall be mailed to the employer within three days of  
4 filing with the clerk.

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

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

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

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

27 (2) The department shall file a copy of the warrant with the clerk  
28 of the superior court of any county of the state in which real and/or  
29 personal property of the taxpayer may be found. The clerk is entitled  
30 to a filing fee under RCW 36.18.016. Upon filing, the clerk shall  
31 enter in the judgment docket, the name of the taxpayer mentioned in the  
32 warrant and in appropriate columns the amount of the fee, tax or  
33 portion thereof and any increases and penalties for which the warrant  
34 is issued and the date when the copy is filed, and thereupon the amount  
35 of the warrant so docketed shall become a specific lien upon all goods,  
36 wares, merchandise, fixtures, equipment, or other personal property  
37 used in the conduct of the business of the taxpayer against whom the  
38 warrant is issued, including property owned by third persons who have

1 a beneficial interest, direct or indirect, in the operation of the  
2 business, and no sale or transfer of the personal property in any way  
3 affects the lien.

4 (3) The lien shall not be superior, however, to bona fide interests  
5 of third persons which had vested prior to the filing of the warrant  
6 when the third persons do not have a beneficial interest, direct or  
7 indirect, in the operation of the business, other than the securing of  
8 the payment of a debt or the receiving of a regular rental on  
9 equipment. The phrase "bona fide interests of third persons" does not  
10 include any mortgage of real or personal property or any other credit  
11 transaction that results in the mortgagee or the holder of the security  
12 acting as trustee for unsecured creditors of the taxpayer mentioned in  
13 the warrant who executed the chattel or real property mortgage or the  
14 document evidencing the credit transaction.

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

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

24 When an assessment becomes final in accordance with this chapter,  
25 the department may file with the clerk of any county within the state  
26 a warrant in the amount of the assessment of taxes, penalties,  
27 interest, and a filing fee (~~of five dollars~~) under RCW 36.18.016.  
28 The clerk of the county in which the warrant is filed shall immediately  
29 designate a superior court cause number for the 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 licensee or  
32 person mentioned in the warrant, the amount of the tax, penalties,  
33 interest, and filing fee, and the date when the warrant was filed. The  
34 aggregate amount of the warrant as docketed becomes a lien upon the  
35 title to and interest in all real and personal property of the named  
36 person against whom the warrant is issued, the same as a judgment in a  
37 civil case duly docketed in the office of the clerk. The warrant so  
38 docketed is sufficient to support the issuance of writs of execution

1 and writs of garnishment in favor of the state in the manner provided  
2 by law in the case of a civil judgment, wholly or partially  
3 unsatisfied. The clerk of the court is entitled to a filing fee ((~~of~~  
4 ~~five dollars~~)) under RCW 36.18.016.

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

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

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